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FOR 30 APRIL 1993 AT 11H00**

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**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON FRIDAY 30 APRIL 1993 AT 11H00**

Chairpersonship - L Landers assisted by MJ Mahlangu

1. **Moment of Silence**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Minutes**
 - 4.1 Adoption of the minutes of the meeting of the Negotiating Council of:
 - * 30 March 1993 (Addendum A1, p1-12)
 - * 26 April 1993 (Addendum A2, p13-27)
 - 4.2 Matters arising out of the minutes of the meeting of the Negotiating Council of:
 - * 30 March 1993
 - * 26 April 1993
 - 4.3 Other minutes to be noted (Addendum A3, p28-43)
5. **Substantive Issues**
 - 5.1 Report from the Planning Committee on Constitutional Issues
 - 5.1.1 Explanatory Memorandum (Addendum B1, p44-45)
 - 5.1.2 Report itself (Addendum B2, p46-60)
 - 5.2 Recommendations by the Planning Committee:
 - 5.2.1 On Violence (Addendum C, p61-64)
 - 5.2.2 On The Transitional Process (Addendum D, p65-77)
 - 5.3 An Election Date (Report to be given in the meeting)
6. **Procedural Issues**
 - 6.1 Criteria for New Participants
 - 6.2 Name of the Process
 - 6.3 Role of the International Community
7. **Administrative Matters**
 - 7.1 Report on the problem with the Couriers
8. **Meetings Schedule** (Addendum E)
9. **Closure**

THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO MEMBERS OF THE NEGOTIATING COUNCIL. THEY ARE STILL TO BE RATIFIED AT THE NEXT MEETING OF THE NEGOTIATING COUNCIL.

DRAFT MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 10H00 ON TUESDAY 30 MARCH 1993 AT THE WORLD TRADE CENTRE

PRESENT: See Addendum A

1. **Welcome**

The delegates and advisers were welcomed by C Eglin who acted as interim Chairperson, and an apology was made to the meeting for the late start.

2. **Chairpersonship**

2.1 A report from the Planning Committee (see Addendum A of the Agenda document) was tabled and presented to the meeting.

2.2 The report was adopted by the Negotiating Council and DJ de Villiers assumed the role of the Chairperson.

2.3 It was noted that C Eglin and PJ Gordhan assisted DJ De Villiers.

3. **Ratification of Agenda**

The agenda was ratified with the following amendments:

- * The addition of "'Matters Arising" including the issue of the media, under Item 4.
- * The items of "Ratification of Minutes" and "Matters Arising" should be put permanently on the agenda.
- * Following from Matters Arising would be Procedural Issues listed under Item 6. Item 6 would therefore become Item 5, and agenda items would be amended accordingly.
- * The amendment of the new Item 5.1 to read "Composition, rotation and continuity of the Planning Committee".
- * Item 5 would then read Item 6.
- * The addition of Item 6.1 to read "The issue of violence" and Item 6.2 to read "CODESA Agreements".

Minutes of the Meeting of 18 March 1993

4.1 Adoption of the minutes:

The minutes were adopted with the following amendments:

- * The numbering from Item 4 onwards was corrected.
- * Item 5.4.3, the second sentence refers: "and" be replaced by "any";
- * The Addition of an Item 6.6.8 to read "With regard to the Planning Committee, the principle of rotation and continuity were agreed to."
- * Item 6.5.3, the fifth sentence refers: "who" be replaced by "which"

4.2 Matters arising from the minutes:

4.2.1 The presence of the Media within the meeting of the Negotiating Council:

4.2.1.1 It was noted that there was a common desire to make the process more transparent, but no consensus was reached.

4.2.1.2 It was agreed that the Planning Committee meets over lunch time to see if it is possible to resolve this issue and to report back after lunch.

4.2.1.3 After lunch, the Planning Committee tabled a proposal (Addendum B).

4.2.1.4 It was agreed to adopt the proposal, in principle, with the following amendments:

- * Item 5.1 should read: "A proposal to move into committee is proposed and seconded at the Negotiating Council meeting."
- * Item 5.2 should read: "This proposal is then discussed by the Negotiating Council in committee and on adoption, the Negotiating Council shall then meet in committee to discuss the issue at hand." Item 6 would therefore fall away.
- * Item 5.3 refers: "open" replaces "'full";

4.2.1.5 It was agreed that the wording of the proposal be refined by the Planning Committee.

4.2.1.6 The proposal by the Labour Party that Mr Eglin as acting Chairperson of the Planning Committee be mandated to go and report back to the media in this

regard was not accepted. The Labour Party noted their objection to this.

4.2.1.7 With regard to the issue of the Memorandum in respect of the Media, as issued by the Administration (Addendum C), it was agreed that:

- * This Memorandum be withdrawn;
- * The Planning Committee is to draft guidelines in conjunction with Administration for dealing with the media.

4.2.1.8 The Planning Committee was mandated to consider whether this constituted an open invitation to all media, (e.g. International media, etc.), to consider the logistical issues in this regard.

5. Procedural Issues

5.1 Composition and Rotation of the Planning Committee:

5.1.1 It was agreed that, at the first meeting of the Negotiating Council after a Plenary session, the composition of the Planning Committee should be reconsidered, bearing in mind the elements of continuity, balanced representation and rotation. This applies to the panel of Chairpersons as well.

5.1.2 It was noted that the Planning Committee only submits recommendations and reports to the Negotiating Council.

5.2 Administration:

5.2.1 A report was tabled (Addendum D) and presented by the sub-committee of the Planning Committee to the meeting.

5.2.2 The report was adopted in principle, with the following amendments:

- * Item 2.2.4 was amended to read : "In the event of any problem arising in this regard, the Planning Committee, as mandated by the Negotiating Council, will have the power to intervene and deal with such an issue appropriately."
- * Item 2.2.1 refers, "Permanent" should be replaced by "Separate".
- * Item 2.2.6 refers, the words "as Executive Officer" should be deleted.

5.2.3 In addition the following was agreed:

- * To accept the guidelines in principle, applicable to whatever Administration is appointed;
- * To extend the appointment of The Consultative Business Movement until the next Plenary;
- * To mandate the sub-committee to further consider the feasibility of a tender system, taking into account the issue of the financial management by the Administration, and report back to the Negotiating Council as soon as possible; and
- * That a legal contract be drafted and submitted to the Negotiating Council for approval. All the elements of the report should be included in the contract. The element of financial management should also be contained within the contract.

5.2.4 It was further agreed that, as Security should be multi-party by nature, an invitation be sent by the Administration to all parties/organisations/delegations to nominate members if they so wish. It was noted that security forms part of Administration.

5.2.5 It was finally agreed to deal with the issue of an International Observer within the Administration when the role of the International Community is discussed within the Agenda of this meeting.

5.3 **Standing Rules:**

5.3.1 A report was tabled and presented by the sub-committee of the Planning Committee to the meeting. (See Addendum E)

5.3.2 The report was adopted with the following amendments:

- * Item 6.4 refers: "accept" be replaced by "except";
- * Item 9.1 should read "All Plenary and Negotiating Forum meetings shall be open to the media."
- * Item 9.2 should read "The Negotiating Council shall itself decide on whether, and if so which of its meetings shall be open to the media."

5.3.3 It was noted that Item 3.4 will be applied with flexibility.

5.4 **New Participants:**

5.4.1 A report was tabled (Addendum D of the Agenda Document) and presented by the Planning Committee to the meeting.

5.4.2 It was agreed to refer this issue back to the Planning Committee to submit recommendations to the next meeting of the Negotiating

Council. It was noted that the issue of the representation of Traditional Leaders should be included in the recommendations.

5.4.3 It was agreed that a letter be sent out to the new applicants noting that this issue is still under consideration and will be resolved as soon as possible. It should be pointed out that under the circumstances, the same courtesy the Planning Conference afforded to them to allow them observer status, can unfortunately not be granted at the meeting of the Negotiating Forum on 1 & 2 April 1993.

5.4.5 It was noted that all International Observers and Organisations which had been invited to the Planning Conference, should again be invited to the Negotiating Forum.

5.5 Agenda for and Functioning of the Meeting of the Negotiating Forum (1 & 2 April 1993):

5.5.1 A proposed draft agenda was tabled at this meeting.

5.5.2 It was noted that the opening remarks of the Chairperson be discussed with the Panel of Chairpersons.

5.5.3 The draft agenda (Addendum F) was adopted with the following amendment:

* Item 7 should read: "The way forward and instructions to the Negotiating Council concerning constitutional issues".

5.5.4 It was noted that the Negotiating Council amended the wording of Item 7 in order that participants can raise issues such as the form of government, the form of state and a constituent assembly at the meeting of 1 & 2 April 1993.

5.5.5 It was agreed that the meeting of the Negotiating Forum would start at 10h00 on Thursday and at 09h00 on Friday.

5.6 Media Arrangements for the Negotiating Forum (1 & 2 April):

5.6.1 It was agreed that a Communications Committee consisting of one representative of each party/organisation/delegation be convened.

5.6.2 This committee should deal with the media on behalf of parties/delegations/organisations with regard to the meeting of the Negotiating Forum. Furthermore, this committee will deal with general guidelines and outstanding issues in respect of the media.

5.6.3 Each party/organisation/delegation is requested to nominate a representative for this committee.

5.6.4 It was noted that this committee will meet at 10h00 on Wednesday 31 March at the World Trade Centre. A list was circulated amongst participants to obtain names and contact numbers.

5.7 Meeting of Women Representatives:

5.7.1 It was agreed that the three women present allowed to present the report on behalf of the meeting of women representatives to the Negotiating Council. They were J Hunter, M Manzini and S Vos.

5.7.2 A report was tabled and presented by the women representatives. (See Addendum E of the Agenda Document.)

5.7.3 The following was agreed to with regard to the representation of women with the Multi-Party Negotiating Forum:

The Plenary:

All delegations for the Plenary must include women.

The Negotiating Forum:

The composition of delegations in the Forum will be increased to four delegates and two advisers with the prescription that at least one woman be included as a delegate.

The Negotiating Council:

Delegations will be entitled to expand their delegates to 2, one of whom must be a woman. The number of 2 advisers remains.

The Democratic Party and the Labour Party noted their objections in this regard in respect of the increase in numbers of delegations, while supporting the compulsory inclusion of women.

The Afrikaner Volksunie also noted its objection.

It was agreed that this decision is to come into being with immediate effect.

It was noted that the Standing Rules will be accordingly amended.

5.8 The name of the process:

5.8.1 The following options were tabled by the Planning Committee:

- * CODESA
- * NEFSA (Negotiating Forum for South Africa)

- * CODESA/NEFSA
- * SACOF (South African Constitutional Forum)
- * COFSA (Constitutional Forum for South Africa)
- * CONEDSA (Convention for Negotiating a Democratic South Africa)
- * CONESAD (Convention for Negotiating a South African Democracy)
- * DECOSA (Democratic Convention of South Africa)
- * MPCC (Multi Party Constitutional Convention)
- * MPDC (Multi Party Democratic Convention)

5.8.2 It was noted that the Planning Committee could not reach consensus on this issue.

5.8.3 It was agreed to refer this issue back to the Planning Committee for a final recommendation to the Negotiating Council at its next meeting.

5.8.4 It was noted that any party/organisation/delegation could submit proposals to the Planning Committee in this regard.

6. Substantive Issues

6.1 Violence:

6.1.1 It was agreed to mandate the Planning Committee to submit recommendations to the Negotiating Council on how to structure the discussion on violence and its effects on the negotiations process in the meeting of the Negotiating Forum (1 & 2 April 1993) to the satisfaction of all parties/organisations/delegations.

6.1.2 The Planning Committee was urged to treat this issue as a matter of grave importance.

6.1.3 It was noted that these recommendations should facilitate the flow and constructiveness of the debate at the meeting of the Negotiating Forum (1 and 2 April 1993).

6.2 CODESA Agreements

6.2.1 A summary report was tabled and presented to the meeting by the sub-committee. The recommendations of the report were agreed to in principle.

6.2.2 It was noted that the Consolidated Document should be ready for the next meeting of the Negotiating Council.

6.2.3 It was agreed that a drafting sub-committee consisting of M Maharaj,

B Ngubane and SS van der Merwe (to be expanded when necessary) will draft the Consolidated Document for consideration and discussion by the Negotiating Council.

6.2.4 It was further agreed that a summary report on the CODESA Agreements will be presented for the consideration of the Negotiating Forum.

7. Administrative and Financial Matters

7.1 The recommendations as tabled by the Planning Committee were adopted with the proviso that the issue of payments to Government and Administration delegations be revisited by the Planning Committee.

7.2 It was agreed to mandate the Planning Committee to deal with all outstanding issues for the meeting of the Negotiating Forum (1 & 2 April 1993).

7.3 It was agreed that the Planning Committee was mandated to deal with the issue of the planned demonstrations.

7.4 The Planning Committee was, finally, mandated to deal with the issue of the Role of the International Community and submit recommendations to the Negotiating Council.

8. Media Statement

A media statement was drafted (Addendum G) and would be presented to the press by C de Jager, L Landers and MC Ramaphosa.

9. Meetings Schedule

The Planning Committee was mandated to deal with this issue.

10. Closure

The meeting closed at 19h00.

These minutes were ratified at the meeting of the Negotiating Council of 1993 and the amended version signed by the Chairperson of the original meeting on

.....
CHAIRPERSON

The following members were present at the meeting of the Negotiating Council on 30 March 1993:

Party/Delegation/ Organisation	Delegate	Advisers
ANC	MC Ramaphosa	M Maharaj M Manzini
AVU	CD de Jager	MJ Mentz JJC Botha
Bophuthatswana	R Cronje	SG Mothibe BE Keikelame
Cape Traditional Leaders	M Nonkonyana	G Gwadiso DM Jongilanga
Ciskei	MB Webb	RM Ngcofe Mr Faku
Democratic Party	KM Andrew	PG Soal
Dikwankwetla	TJ Mohapi	DT Mokoena JSS Phatang
IFP	FT Mdlalose	S Vos WS Felgate
IYP	NJ Mahlangu	AP Laka N Motsweni
Konserwatiewe Party	T Langley	F le Roux CP Mulder
INM	SS Ripinga	MS Gininda FS Baloyi
Kwazulu Government	BS Ngubane	SH Gumede M Wiechers
Labour	LT Landers	P Hendrickse E Samuels
NIC/TIC	C Salojee	K Mayey
National Party	L Wessels	
NPP	A Rajbansi	S Ismail J Bacchu
OFS Traditional Leaders	MB Mota	RH Mopeli MA Molefe
PAC	B Alexander	M Shinnars M Nemadziyhanani
Solidarity	DS Rajah	JN Reddy Y Moolla
SACP	J Slovo	L Jacobs S Shilowa

● Government

RP Meyer

T Delpont
SS vd Merwe

Transkei

Z Titus

Tvl Traditional Leaders

NM Malekane

Chhief Nengomane
Chief Netshimbupfe

UPF

MJ Mahlangu

J Dombo

Venda

SE Moeti

J Maake

S Makhuvha

XPP

EE Ngobeni

MP Nthabalala

TB Shibambu

Chairperson:

D de Villiers chaired the meeting assisted by C Eglin and PJ Gordhan.

Administration:

T Eloff

Minutes:

G Hutchings

Assistant:

M Radebe

Addendum A2

During the course of the meeting of the Negotiating Council on 30 March 1993, it was noted that the following delegates were, during the course of the meeting, substituted by their advisers:

Dikwankwetla Party	:	DT Mokoena substituted for TJ Mohapi
IFP	:	WS Felgate substituted for FT Mdlalose
National Peoples Party	:	S Ismail substituted for A Rajbansi
Solidarity	:	Y Moola substituted for DS Rajah
Ximoko Progressive Party	:	TB Shibambu substituted for EE Ngobeni

THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO MEMBERS OF THE NEGOTIATING COUNCIL. THE DRAFT MINUTES ARE TO BE RATIFIED AT THE NEXT MEETING OF THE NEGOTIATING COUNCIL.

DRAFT MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD ON MONDAY 26 APRIL 1993 AT 10H30 AT THE WORLD TRADE CENTRE

PRESENT: See Addendum A

1. Moment of Silence and Motions of Condolences

1.1 A moment of silence was observed by all members.

1.2 Motions of condolences were verbally expressed by the:

- * Konserwatiewe Party for Dr AP Treurnicht;
- * Inyandza National Movement for Mr O Tambo;
- * Transkei Government for Mr C Hani.

A moment of silence was observed by all members in this regard.

1.3 A motion on behalf of the Planning Committee extending condolences to the Hani family was adopted by general consensus.

2. Welcome and Attendance

2.1 All members were welcomed.

2.2 A special note of welcome was extended to women members and media representatives, as this was the first meeting they had attended.

2.3 It was noted that L Landers assisted the Chairperson because he would be chairing the next meeting of the Negotiating Council.

2.4 Apologies were noted from the Administration for the late or non-arrival of documentation. The Administration is to obtain reasons from the couriers as to why this happened. A report will be submitted to the Negotiating Council in this regard.

Ratification of the Agenda

3.1 The agenda was ratified with the following amendments:

- * The addition of an item 6.3 under Item 6 to read "A date for an election";
- * The addition of an item 7.5 under Item 7 to read "Planning Committee and Resolutions Committee".

3.2 It was noted that the Form of State and any other constitutional issues could be discussed under item 6.1 or 6.2.2.

4. Media Documentation

It was agreed that all documentation distributed to the Negotiating Council should also be distributed to the media.

5. Minutes

5.1 The minutes of the Negotiating Council, Planning Committee and the Negotiating Forum were noted.

5.2 It was further noted that the minutes of the meeting of the Negotiating Council of 30 March 1993 would be ratified and adopted at the next meeting of the Negotiating Council on Friday 30 April 1993.

6. Procedural Issues

6.1 Agreement on Administration:

6.1.1 A report from the Planning Committee recommending that the "Record of Agreement concerning the Administration for the Multi-Party Negotiating Process" be accepted as the basis of the contract/agreement between the Multi-Party Negotiating Process and the Administration was presented.

6.1.2 After discussion and the raising of various concerns it was agreed to refer the Agreement back to the Sub-Committee to submit a further agreement taking into account the views and concerns raised.

6.1.3 When the meeting reconvened after the afternoon tea break it was agreed to adopt the "Record of Agreement concerning the Administration for the Multi-Party Negotiating Process" as amended

(see Addendum B).

6.2 Criteria for New Participants:

6.2.1 It was noted that the Planning Committee was not in a position yet to submit a recommendation to the Negotiating Council in this regard.

6.2.2 It was noted that the Planning Committee should deal with this issue as a matter of urgency and treat it as a priority.

6.2.3 It was noted that the Planning Committee would submit a recommendation to the next meeting of the Negotiating Council on Friday 30 April 1993.

6.3 Name of the Process:

6.3.1 It was noted that the Planning Committee was unable to submit a recommendation to the Negotiating Council in this regard.

6.3.2 It was agreed to refer this issue back to the Planning Committee for further discussion.

6.4 Role of International Community:

It was noted that the Planning Committee was unable to submit a report in this regard but would do so at a future meeting of the Negotiating Council.

6.5 Planning Committee and Resolutions Committee:

6.5.1 Dr B Ngubane tabled a resolution with the meeting (see Addendum C).

6.5.2 With regard to the issue of media briefing by the Planning Committee, the following proposed guidelines were adopted:

- * The media may be advised of items discussed after a meeting, but no details or positions are to be given;
- * Items upon which proposals were made can be identified;
- * The spirit of the meeting can be described;
- * It should be emphasised that the Planning Committee is not a decision-making body, but a sub-committee of the Negotiating Council;
- * Whatever is said, should not pre-empt or appear to pre-empt a debate or a decision of the Negotiating Council.

6.5.3 In the light of these guidelines, the motion was withdrawn.

6.5.4 With regard to the issue of the status of the Resolutions Committee, the following was noted:

- * That there is no Resolutions Committee in operation or in existence;
- * That there should be some modus operandi where the opportunity to verbalise a resolution should be balanced with efficiency of running the meeting. It was agreed to refer the issue of this process to the Planning Committee for a recommendation to be submitted to the Negotiating Council.

6.5.5 In this light, it was agreed that the resolution would be withdrawn.

The meeting adjourned at 12h00 to give delegates and advisers an opportunity to read the documentation and have lunch.

Before the meeting adjourned, the Chairperson briefly took participants through the documentation.

The meeting reconvened at 13h50.

7. Substantive issues

7.1 Before the presentation and tabling of the Consolidated Document proceeded, it was agreed that, as a general guideline, an input by a member be limited to 5 minutes. It was noted that if any member felt that more time was needed for an input, the Chairperson should be approached and some understanding reached.

7.2 The Consolidated Document was tabled and presented on behalf of the Planning Committee, by the Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe). Furthermore, the proposed recommendations were outlined.

7.3 With regard to the status of the Consolidated Document, the following was noted:

The Negotiating Forum at its meeting of 1 April 1992 agreed on the following with regards to the transition process:

- * That a Consolidated Document be drafted and together with the document of the CODESA Agreements (already distributed to

participants) and the summary of the CODESA Agreements (already distributed to participants) form a trilogy of documents to facilitate the work of the Negotiating Council. Furthermore, the trilogy of documents enables all participants to address the issues in full.

- * That the Resolution on The Transition Process (Addendum K of the documentation distributed) indicated that the Consolidated Document should give an overview of the CODESA Reports and the Reports of the Gender Advisory Committee, as well as the issues flowing therefrom. Furthermore, the Consolidated Document should be tabled at the Negotiating Council.
- * That the Consolidated Document shall be without prejudice to all participants and that the Document shall not be binding.
- * That the Negotiating Council consider and report on all matters arising from the Consolidated Report, including inter alia the constitutional matters as listed in Addendum K of the distributed documentation.
- * That, in pursuance of the above decisions of the Negotiating Forum, and as mandated by the Negotiating Forum, the Planning Committee instructed the Sub-Committee to prepare the Consolidated Document, isolate the issues arising therefrom and make proposals on the Technical Sub-Committees that will be required (see Planning Committee minutes of 1 April 1993).
- * That the Consolidated Document flows from the document on CODESA Agreements and the summary of CODESA Agreements. This takes the process one stage further in that instead of presenting the reports in the form of Working Group Reports, they are now isolated and put together in terms of topics. It was further noted that the wording in the Consolidated Report is the same as in the document on CODESA Agreements and as in the summary of the CODESA Agreements.
- * That the usage of the word "agreement" on page 16 of the documentation distributed reflects the title of the document.

7.4 A further report was presented by the Sub-Committee on the issue of violence and a resolution encompassing recommendations on violence was tabled (see Addendum D). In this regard the following was noted:

- * That this resolution does not in anyway pre-empt discussion by any participants in the Council; and
- * That participants were urged to make submissions on this issue or amendments to the draft resolution should they so wish. Submissions

would be received until Thursday 29 April at 17h00.

- * That discussion and adoption of the draft resolution was deferred to the next meeting of the Negotiating Council on Friday 30 April 1993.

7.5 It was noted that the proposed Technical Sub-Committees would enable all participants to address the issue at hand, whether they were in the CODESA process or not.

7.6 It was noted that the persons to be appointed to the proposed Technical Sub-Committees should be appointed in their own right and because of their expertise.

7.7 With regard to the establishment of and the suggested guidelines of the proposed Technical Sub-Committees, the following was agreed:

- * That the establishment of the proposed Technical Sub-Committees stand over until the next meeting of the Negotiating Council on Friday 30 April 1993;

- * With regard to guidelines, any participants wishing to submit recommendations or viewpoints are requested to do so before 17h00 on Thursday 29 April. The Sub-Committee would then formulate a set of guidelines to present for adoption as Terms of Reference to the meeting of the Negotiating Council on Friday 30 April 1993.

- * That the Sub-Committee present to the meeting of the Planning Committee on Thursday 29 April 1993 a report and recommendations on the outstanding Constitutional Issues as identified by the meeting of the Negotiating Forum on 1 April 1993 in the Resolution on The Transition Process. This will be done at a time mutually agreed to by the Sub-committee and the Planning Committee. The Planning Committee would then submit by fax a report with the recommendations to participants by 17h00 on Thursday 29 April 1993. In this way the package could be dealt with in its entirety.

- * The Planning Committee will meet on Thursday at a time which will enable it to do the work that the Negotiating Council has instructed it to do.

7.8 It was noted that the concept/structure of Technical Sub-Committees was adopted at the meeting of the Negotiating Forum on 1 April 1993.

7.9 It was noted that a document circulated by the IFP has no status with the meeting.

A Date for an Election

- 8.1 It was agreed to refer this matter to the Planning Committee to submit a recommendation to the next meeting of the Negotiating Council on Friday 30 April 1993.
- 8.2 It was suggested that the Planning Committee propose a date before the end of April 1994.

9. Administrative Announcements

A report was presented to the Negotiating Council encompassing the following items:

- 9.1 Names of delegates, advisers, support staff and bodyguards for meetings of the Negotiating Council:

It was noted that the Administration, unless otherwise notified, should keep the list as per the names received for this meeting.

- 9.2 Participants were requested to furnish Administration with their correct telephone and fax numbers.
- 9.3 All participants were requested to sign the attendance register. This would facilitate the payment of claims submitted to the Financial Administration.
- 9.4 It was noted that the process of claiming would be speeded up.
- 9.5 Participants were requested to make travel and accommodation arrangements in advance. If transport is required from the airport to the World Trade Centre notification to the travel office is required. (This only applies if the transport booking is not done through the office of the Multi-Party Negotiating Process.)
- 9.6 Participants were requested to have only one body guard per delegate.
- 9.7 It was noted that a full report on the problem with the courier will be submitted at the next meeting of the Negotiating Council on Friday 30 April 1993.

10. Suggested Meetings Schedule

- 10.1 It was suggested that the proposed meeting schedule does not reflect adequately the urgency of the process and that this schedule should be revisited at the next meeting of the Negotiating Council on Friday 30 April 1993. The Planning Committee is to submit a further proposed meeting

schedule taking into account sentiments expressed within the meeting.

10.2 The following meetings were agreed to:

- * The Planning Committee is to meet at a time agreed amongst themselves on Thursday 29 April 1993.
- * The Negotiating Council is to meet at 11h00 to 18h00 on Friday 30 April 1993.
- * The Planning Committee is to meet at 10h00 to 18h00 on Monday 3 May 1993.
- * The Planning Committee is to meet at 08h30 to 13h00 on Tuesday 4 May 1993.
- * The Negotiating Council is to meet at 09h15 to 17h00 on Friday 7 May 1993.

10.3 It was noted that, although there is only one meeting of the Negotiating Council scheduled for the week commencing 3 May 1993, the Planning Committee was mandated to convene another meeting of the Negotiating Council if the Planning Committee deem it necessary. This recommendation could only be decided upon after the meetings of the Planning Committee scheduled for Monday 3 May and Tuesday 4 May 1993.

11. Closure

The meeting closed at 17h10.

The following delegates and advisers were present at the meeting of the Negotiating Council on Monday 26 April 1993:

Organisation	Delegates	Advisers
ANC	C Ramaphosa B Kgosisile	M Maharaj M Manzini
AVU	CD de Jager MJ Mentz	JJC Botha J Gouws
Bophuthatswana	R Cronje R Mangope	BE Keikelame SG Mothibe
Cape Trad. Leaders	M Nonkonyana	GD Gwadiso DM Jongilanga
Ciskei	M Webb VT Gqiba	SM Faku TM Bulube
DP	C Eglin M Finnemore	K Andrew P Soal
Dikwankwetla	JSS Phatang	SOM Moji
IFP	FT Mdlalose FX Gasa	VJ Matthews WS Felgate
IYP	NJ Mahlangu S Mahlangu	AP Laka Q Vilankulu
KP	F Le Roux T Langley	CP Mulder
INM	SS Ripinga JM Matsana	MS Gininda FS Baloi
Kwazulu	BS Ngubane H Ngubane	SH Gumede
Labour Party	P Lategan PAC Hendrickse	E Samuels

IC/TIC	K Mayet	F Hajaij B Pillay
NP	DJ de Villiers E Ngcobondwane	L Wessels SJ Schoeman
NPP	A Rajbansi S Ismail	S Naidoo A Rambarran
OFS Trad. Leaders	ME Sekhoto RH Mopeli	MB Mota MA Molefe
PAC	B Alexander M Molete	M Shinnars G Ebrahim
Solidarity	DS Rajah Y Moolla	JN Reddy
SACP	J Slovo L Jacobs	E Pahad
SA Government	RP Meyer D Govender	T Delpont SS van der Merwe
Transkei	Z Titus	N Jajula
TVL Trad. Leaders	NM Malekane MA Netshimbupfe	
UFP	MJ Mahlangu RJ Dombo	J Maake A Chabalala
Venda	SE Moeti TJ Tsivhase	S Makhuvha GM Ligege
XPP	EE Ngobeni PT Shiluvana	TB Shibambu

PJ Gordhan	:	Chairperson
L Landers	:	Assistant to the Chairperson
T Eloff	:	Administration
G Hutchings	:	Minutes
K Morgan	:	Administration
L Letsoala	:	Administration
M Radebe	:	Administration
G Briggs	:	Administration

ADMINISTRATION: CONTRACT
REPORT TO THE NEGOTIATING COUNCIL

1. The Sub-committee of the Planning Committee was asked to prepare a draft contract with the CBM to include financial arrangements and operating guidelines.
2. The elements concerning operating guidelines to be included in the contract were approved by the Negotiating Council on 30 March 1993.
3. Payments in respect of services rendered are made direct from state funds to the CBM according to arrangements to be approved by the Negotiating Council.
4. The Negotiating Council has no legal personality and capacity to enter into financial contracts. It is accordingly suggested that the financial and administrative operating guidelines be agreed upon and recorded in a document with a copy for each party.
5. A draft record of the agreement is attached.

RECORD OF AGREEMENT CONCERNING THE ADMINISTRATION FOR THE MULTI-PARTY NEGOTIATING PROCESS

It was agreed as follows:

1. Administrative operating guidelines

- 1.1 The Consultative Business Movement (CBM) will set up a separate component at the World Trade Centre to act as the Administration for the Multi-Party Negotiating Process.
- 1.2 The Administration will be directly responsible to and perform its functions under the directions of the Planning Committee as mandated by the Negotiating Council.
- 1.3 The Administration at the World Trade Centre will function separately from other activities of CBM.
- 1.4 In the event of any problem arising in this regard, the Planning Committee, as mandated by the Negotiating Council, will have the power to intervene and deal with such an issue appropriately.
- 1.5 The Negotiating Council will review the activities of the Administration from time to time.
- 1.6 It is a condition of this agreement that Dr Theuns Eloff personally heads the Administration on a full time basis.
- 1.7 The Planning Committee will have full and direct access to Dr Eloff and other appropriate members of the Administration.
- 1.8 The Administration will at all times maintain strict impartiality and objectivity and will render services to all participants in the Multi-Party Negotiating Process on the same level.
- 1.9 No member of the Administration will hold an official position or have a public profile in any political organisation or movement.
- 1.10 Members of the Administration will limit outside and public activities to the minimum so as to ensure the proper profile for these administrative functions. No member of the Administration will speak on the contents of the Multi-Party Negotiating Process in any public forum.
- 1.11 The Planning Committee and the Negotiating Council will be able to

intervene if it is of the opinion that the actions of any staff member impacts negatively on the objectivity and impartiality of the Administration.

- 1.12 The Administration will perform all such services as may be decided by the Planning Committee. These will at least include administration, secretarial services, travel and accommodation arrangements, logistical arrangements and financial administration.

2. **Financial and logistical arrangements**

Whereas the CBM is a non-profit organisation, the financial arrangements will be as follows:

- 2.1 All expenses (direct and indirect) incurred by the CBM in connection with the Administration in respect of remuneration packages, travel and subsistence expenses, will be reimbursed to it by the South African Government.
- 2.2 The CBM will be furnished with all the necessary office supplies and equipment by the South African Government.

RESOLUTION: NEGOTIATING COUNCIL

APRIL 26, 1993

(1) As a sub-committee of the Negotiating Council it is improper for the Planning Committee to issue Press statements under its own initiative. It should refer all needs for Press statements to the Negotiating Council.

(2) That the Resolutions Committee is an ad hoc Committee of the Negotiating Council, and its use for a specific task must be authorized by the Negotiating Council.

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DRAFT MOTION ON VIOLENCE

We, the participants of the Negotiating Council meeting at the World Trade Centre on 26 April 1993:

NOTING

- * The Resolution on Violence taken by the Negotiating Forum on 1 April 1993;
- * The tragic events of the past weeks and the escalation of violence in our country;
- * The detrimental effect this can have on the negotiating process and the peaceful settlement of the political problems of our country.

NOTING FURTHER

- * That many leaders and political formations have expressed themselves increasingly and with greater forthrightness and urgency on the need to curb violence;
- * That there is a growing perception amongst the public of the need for a concerted movement for peace.

HEREBY RESOLVE

- * To re-commit ourselves personally and collectively to peace; and undertake effective action, jointly and severally, leading to the eradication of violence and the attainment of peace;
- * To express our sincerest condolences to the families, friends and colleagues of all South Africans who have recently died, irrespective of race, political affiliations or religious beliefs;
- * To instil a sense of all pervasive urgency in the negotiating process;
- * To call on our followers and members to desist from any form of violence or intimidation and to give the negotiations a real chance to bring our country through a peaceful transition to a non-racial and democratic dispensation;
- * To do everything in our power to strengthen the National Peace Accord and its structures.

THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO MEMBERS OF THE PLANNING COMMITTEE AND THE NEGOTIATING COUNCIL. THEY ARE STILL TO BE RATIFIED AT THE NEXT MEETING OF THE PLANNING COMMITTEE.

DRAFT MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 14H30 ON THURSDAY 22 APRIL 1993 AND AT 08H30 ON FRIDAY 23 APRIL 1993 AT THE WORLD TRADE CENTRE

- PRESENT:
- B Alexander
 - R Cronje
 - C Eglin
 - PJ Gordhan
 - FT Mdlalose
 - RP Meyer
 - MC Ramaphosa
 - J Slovo
 - Z Titus (Chairperson by rotation)
 - M Webb
-
- T Eloff (Administration)
 - G Hutchings (Minutes)
 - H Bokaba (Assistant)
 - K Morgan (Assistant)

Action

1. Chairpersonship and Welcome

- 1.1 In accordance with the agreed principle of rotation, MC Ramaphosa was due to assume the role of Chairperson for the meeting. MC Ramaphosa requested the meeting to allow him to stand down and the next member chair the meeting.
- 1.2 The next member due to chair was J Slovo who also requested that he be allowed to stand down from the chair.
- 1.3 It was agreed that Z Titus, therefore, assume the role of Chairperson.
- 1.4 The members were welcomed and the Chairperson enquired as to whether any member had any proposals or comments to put forward before the meeting began formally. In this regard the following was noted:

- * MC Ramaphosa formally conveyed the appreciation of the ANC and thanked members of the Planning Committee for their understanding and co-operation with regard to the proposal put forward by the ANC that meetings of the Negotiating Process be postponed in order to arrange Mr Chris Hani's burial.
- * That the meetings of the Negotiating Process would have commenced on 15 April 1993 if the assassination of Mr Chris Hani had not occurred.

1.5 Apologies were noted for the late arrival of R Meyer when the meeting recommenced on Friday 23 April 1993.

2. Ratification and Amendment of the Agenda

The Agenda was ratified with the following amendments:

- * Item 3 to read "Ratification and Amendment of Agenda";
- * The addition of an item 3a to read "Implications of the assassination of Mr Chris Hani and subsequent events for the negotiations process";
- * Item 6 and 7 be interchanged;
- * Item 6 to read as follows:
 - "6.1 The Report from the Sub-Committee on Constitutional Issues
 - 6.2 Implementation of the Resolution on Violence
 - 6.2.1 Submissions by participants on violence
 - 6.3 Implementation of the Resolution on the Transition Process";
- * The addition of an Item 10 to read "Draft Agenda for and report to the Negotiating Council";

Administration

- * The numbers following changed accordingly.

It was agreed to begin each meeting of the Planning Committee with a moment of silence. It was further agreed that a proposal recommending that meetings of the Negotiating Council commence in this way, be tabled at the meeting of the Negotiating Council on Monday 26 April 1993.

Chairpersons

3. **The Implications of the Assassination of Mr Chris Hani on and Subsequent Events for the Negotiations Process**

3.1 After discussion the following was noted:

- * It was agreed to focus on Item 6 of the agenda before attending to the other Items on the agenda.
- * It was agreed to propose to the Negotiating Council that a motion of condolences be extended to the Hani family on behalf of the Multi-Party Negotiating Process.
- * That PJ Gordhan was requested to draft a proposal for submission to the Planning Committee when the meeting recommenced on Friday 23 April 1993. Once this draft had been amended and approved by the meeting, it would be tabled at the meeting of the Negotiating Council on Monday 26 April 1993.

PJ Gordhan

4. **Substantive Issues**

4.1 The Transition Process:

- 4.1.1 As mandated by the Negotiating Forum, the Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe) tabled and verbally presented the Consolidated Document, encompassing CODESA Agreements (and Constitutional Issues) to the meeting.
- 4.1.2 Furthermore, four proposals intending to take the up the issues of the TEC, the IEC, the IMC

and Discriminatory Legislation were presented to the meeting.

4.1.3 It was agreed that the Sub-Committee only present the Consolidated Document to the meeting and that discussion in this regard would take place when the meeting recommenced on Friday 23 April 1993, where the Planning Committee would then formulate a package of proposals for recommendation to the meeting of the Negotiating Council on Monday 26 April 1993. These proposals would be aimed at facilitating the way forward.

Sub-Committee

4.1.4 It was agreed to deal with the substance of what was reported first and then to deal with the issue of violence when the meeting recommenced on Friday 23 April 1993.

The meeting adjourned at 17h35.

The meeting recommenced on Friday 23 April 1993 at 08h30.

4.1.5 After discussion the following was noted:

- * The proposals as suggested by the Sub-Committee will allow those participants who were not part of CODESA to make an input. Furthermore, they also allow participants in the CODESA process to make further inputs should they so wish;
- * It was agreed to recommend to the Negotiating Council that the proposed Technical Sub-Committees be established. This constituted agreement on the handling of the process and procedures to be followed but not necessarily on the substantive issues;
- * That drafting in legislative form should

precede substantive discussion on these issues/topics as this would facilitate and structure the discussion process. It was further noted that this drafting would in no way pre-empt political decisions on the issues;

* Any participant may submit inputs/proposals in respect of the Terms of Reference of the Technical Sub-Committees through the Sub-Committee. It was further noted that the possible receipt of further inputs should not delay the setting up and the work of the Technical Sub-Committees;

* All participants should be invited to submit written inputs with regard to the Terms of Reference. The suggested deadline for such submissions is Wednesday 28 April 1993 at 12h00. It was suggested to propose to the Negotiating Council that the Council mandate the relevant proposed Technical Sub-Committee to take into account as many of the submissions as possible. The amended Terms of Reference should be submitted to the next meeting of the Negotiating Council (Friday 30 April 1993) through the Planning Committee;

* That the Technical Sub-Committees would only have the power to draft in terms of their mandate (i.e. the Terms of Reference);

* It was noted that this was an initial report from the Sub-Committee and that the Planning Committee was awaiting a further report dealing with Constitutional Issues as listed within The Resolution on the Transition Process as adopted at the meeting of the Negotiating Forum on 1 April 1993;

- * The Sub-Committee members were congratulated on their work.

4.1.6 It was agreed to present the report to the Negotiating Council in the following way:

- * To initially draw the attention of the Negotiating Council to the Resolution on the Transition Process adopted at the meeting of the Negotiating Forum on 1 April 1993;
- * That the proposals are part of the recommended way of implementing the Resolution;
- * To clearly state that the report is not complete and that the Sub-Committee, to complete the report, is still to submit via the Planning Committee a report on the Constitutional Issues to be dealt with as listed in the adopted Resolution on the Transition Process;
- * To further state that these issues would be dealt with at the next meeting of the Negotiating Council on Friday 30 April 1993.
- * To make participants aware that it is the concept of the setting up of Technical Sub-Committee that is being recommended and that all participants are invited to submit inputs with regard to the Terms of Reference of the Technical Sub-Committees. Furthermore, once the Technical Sub-Committees have been established, all participants will have direct access to them.
- * That if any participant finds any inconsistencies within the Consolidated Report, to advise the Sub-Committee in this regard. Furthermore, that the

Summary of CODESA Agreements as distributed at the meeting of the Negotiating Forum on 1 April 1993 is the authoritative document and that the Consolidated Document is a consolidation of the Summary of CODESA Agreements.

- * To note that points of substance should be submitted to the Negotiating Council through the Planning Committee. It was suggested that it could be considered to allow Technical Sub-Committee members to attend relevant meetings of the Negotiating Council so as to benefit from the input. A cut-off date is needed so that the proposed Technical Sub-Committee can proceed with and complete its work.

4.1.7 It was agreed that the Administration should make copies of the report from the Sub-Committee available to all delegations before the meeting of the Negotiating Council on Monday 26 April 1993.

Administration

4.1.8 It was agreed that the report be embargoed until Monday 26 April 1993 at 12h00.

4.1.9 Composition of the proposed Technical Sub-Committees:

- * It was agreed that members of the Technical Sub-Committees should be appointed as individuals and should have the necessary expertise.
- * It was noted that the Sub-Committee is in the process of drawing up a list of possible candidates specifying their areas of expertise.
- * It was agreed to recommend to the Negotiating Council that only members of Sub-Committees who would lose

remuneration for the period that they are working for the proposed Technical Sub-Committees be re-imbursed for their time, based on a professional rate.

- * It should be proposed to the Negotiating Council that it mandates the Planning Committee to submit a recommendation to the next meeting of the Negotiating Council with regard to the list of possible candidates. It should further be proposed that participants may suggest to the Planning Committee any candidates to be included within the recommendation.

4.2 Violence:

4.2.1 The Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe) presented a report on violence.

4.2.2 It was agreed to recommend to the Negotiating Council that 3 Technical Sub-Committees each consisting of 3 persons be established.

4.2.3 It was suggested that the Technical Sub-Committees should deal immediately with the following issues:

- * Strengthening of the Peace Accord, taking into account the work of Working Group 1 at CODESA. It should be further recommended that 3 persons be nominated from the Peace Committee to serve in an advisory capacity on the Technical Sub-Committee.
- * The possible setting up of a Peace Corps.
- * Armed Formations. It is recommended that this Technical Sub-Committee be entrusted to the Technical Committee on

the TEC.

4.2.4 It was agreed that the issue of violence should be an ongoing debate and should remain on the agendas of the Planning Committee and the Negotiating Council. It was further agreed that submissions should be received on an on-going basis in this regard.

4.2.5 It was suggested that all participants, if they so wish, submit suggestions for further mechanisms to resolve the issue of violence to further identify the issues to be addressed by the mechanisms to the Sub-Committee. This would facilitate the work of the Sub-Committee in submitting recommendations to the Planning Committee, who in turn would submit recommendations to the Negotiating Council.

4.2.6 It was agreed that a peace statement be drafted by the Sub-Committee for tabling at the meeting of the Negotiating Council on Monday 26 April 1993 through which all participants in the Multi-Party Negotiating Process could publicly re-commit themselves to peace.

Sub-Committee

5. Motions of Condolences

It was agreed that a motion of condolences should be sent to the family of Dr AP Treurnicht. C Eglin was requested to draft a motion in this regard.

6. Minutes of the Planning Committee meetings of 31 March 1993 and 1 April 1993

6.1 The minutes were noted but not approved.

6.2 It was agreed to consider the minutes at the next meeting of the Planning Committee.

6.3 The minutes of the Negotiating Forum would also be considered at the next meeting of the Planning Committee. It was agreed that the minutes of the

Negotiating Forum should be included within the documentation for the meeting of the Negotiating Council on Monday 26 April 1993.

7. **Procedural Issues**

7.1 **Admission of the media to meetings of the Negotiating Council** (Report from the Communications Committee):

7.1.1 A representative from the Communications Committee presented a report which included recommendations to the Planning Committee. (This issue was reported on at the beginning of the meeting on Thursday 22 April 1993.)

7.1.2 After discussion it was agreed that:

- * In view of the clear decision taken by the Negotiating Council at its meeting of 30 March 1993 to admit the media to meeting of the Negotiating Council, the Administration in consultation with the Communications Committee should make the necessary arrangements to accommodate the media.
- * It was agreed that another room be set up to accommodate a possible media overflow with a feed running from the meeting room into the overflow room.
- * It was agreed that the Administration get a cost estimate from the SABC. The quotation of R27 927 excluding VAT was accepted for services rendered from the SABC for Monday 26 April 1993 and Friday 30 April 1993.
- * It was agreed that the Communications Committee will submit a report to the Planning Committee based on the results of the media attending the meeting of the Negotiating Council on

Administration

Communications
Committee

Monday 26 April 1993. Further recommendations would then be made to the Negotiating Council.

* It should be reported to the Negotiating Council at the meeting on 26 April 1993 that the Planning Committee handled the arrangements for the media on Monday 26 April 1993 and a final report will follow.

Planning
Committee

* It was agreed that the Item of "Media Documentation" should be the first item on the agenda for the meeting of the Negotiating Council. A decision is necessary on whether the media should pay a fee for documentation relevant to the meeting. It would be suggested to the Negotiating Council that each media group be requested to deposit a sum of R200 in payment for copies of documents relevant to the meeting. Agendas of the meeting of the Negotiating Council on Monday 26 April 1993 would be distributed to the media before the meeting.

7.2 Agreement for the Administration:

A draft agreement would be submitted to the meeting of the Negotiating Council on Monday 26 April 1993 for adoption.

7.3 Criteria for New Participants:

7.3.1 The Sub-Committee requested the Planning Committee to re-consider the report from the Sub-Committee at its next meeting as no amendments had been made to the document. The Sub-Committee was of the view that not enough inputs had been received in this regard from participants to justify amendments.

7.3.2 It was noted that the Sub-Committee should receive from the Administration any

Administration

outstanding submissions in this regard.

7.3.3 It was noted that this issue should be treated as a matter of urgency.

7.4 **Name of the Process:**

7.4.1 It was agreed to refer this issue to B Alexander and J Slovo for further consideration and recommendation.

7.4.2 It was be reported to the meeting of the Negotiating Council on Monday 26 April 1993 that this issue is still under consideration.

8. **Administrative and Financial Matters**

8.1 It was noted that reports not received timeously should stand over until the next meeting of the Planning Committee.

8.2 The Administration gave a report on security with regard to possible demonstrations to be held on Friday 23 April 1993. The Administration requested assistance from members if necessary. It was agreed that the demonstrators should remain outside the premises of the World Trade Centre.

8.3 The Administration submitted a report on "Contact with other Negotiating Fora". The report was adopted with amendments (see Addendum A). It was noted that the Planning Committee is to be kept fully informed in all aspects in this regard and a list of such fora should be submitted by Administration.

Administration

8.4 The Administration announced that copies of newspapers would be available in the tea/coffee area of the Negotiating Council meeting room.

8.5 It was noted that if participating governments and administrations make travel and accommodation arrangements through the travel offices of the Multi-Party Negotiations Process at the World Trade Centre they are not liable for payment of the account as the

Financial Administration would be re-imbursing the travel office and not the relevant government/administration.

9. **Role of the International Community**

9.1 All participants were requested to submit recommendations to the Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe). The Sub-Committee is then to submit proposals/recommendations in this regard to the Planning Committee for recommendation to the Negotiating Council. It was noted that there is no deadline for submissions at this stage.

Chairperson

9.2 It was noted that the Role of the International Community will further emerge as the process unfolded.

10. **Draft Agenda for the meeting of and the report to the Negotiating Council**

10.1 It was agreed that the Chairperson for the meeting of the Negotiating Council on Monday 26 April 1993 (PJ Gordhan) be assisted by the incoming Chairperson (L Landers).

10.2 With regard to the question of the role that the Chairperson of the Planning Committee plays within the meetings of the Negotiating Council, it was agreed that this be discussed at the next meeting of the Planning Committee. It was noted that when reports are presented by the Planning Committee the last Chairperson of the Planning Committee should be onhand to assist the Chairperson of the day.

Planning
Committee

10.3 The draft agenda was approved as amended (see Addendum B).

10.4 It was agreed that:

- * The Consolidated Document be introduced by Z Titus and the Planning Committee

recommendations be presented by Z Titus.

- * The body of the Consolidated Document be presented by the Sub-Committee.
- * The Agreement on the Administration, Criteria for New Participants and the Role of the International Community be presented by the Chairperson.
- * The report on the Name of the Process be presented by J Slovo.

11. **Meetings Schedule**

The meetings schedule would be recommended to the meeting of the Negotiating Council on Monday 26 April 1993.

12. **Closure**

12.1 It was agreed that the Chairperson of day issue a brief statement to the media bearing in mind the status of the Planning Committee.

12.2 The meeting closed at 13h15.

These minutes were ratified at the meeting of the Planning Committee of 1993 and the amended version signed by the Chairperson of the original meeting on

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CHAIRPERSON

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Recommendation on Contact with Other Negotiating Bodies

Given the fact that, apart from the Multi-Party Negotiating Process, there are numerous national and regional negotiating initiatives, and given the need for transparency, it is recommended that:

1. Contact be made with all relevant negotiating forums, requesting and offering regular exchange of decisions.
2. The Administration, keeping the Planning Committee fully informed, be mandated to comply with this on an ongoing basis.
3. The Administration is to submit a list of such fora to the Planning Committee.

**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON MONDAY 26 APRIL 1993 AT 10H00**

Chairpersonship - PJ Gordhan assisted by L Landers

1. **Moment of Silence and Motions of Condolences**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Media Documentation**
5. **Minutes**
 - 5.1 Adoption of the minutes of the meeting of the Negotiating Council of 30 March 1993
 - 5.2 Matters arising out of the minutes of the meeting of the Negotiating Council of 30 March 1993
 - 5.3 Other minutes to be noted
6. **Substantive Issues**
 - 6.1 Tabling of the Consolidated Document
 - 6.2 Recommendations by the Planning Committee:
 - 6.2.1 On Violence
 - 6.2.2 On the Transitional Process
7. **Procedural Issues : Report of the Planning Committee**
 - 7.1 Agreement on Administration
 - 7.2 Criteria for New Participants
 - 7.3 Name of the Process
 - 7.4 Role of the International Community
8. **Administrative Announcement**
9. **Meetings Schedule**
10. **Closure**

EXPLANATORY MEMORANDUM TO BE ACCEPTED BY ALL PARTICIPANTS IN THE MULTI-PARTY PROCESS RELATING TO PROPOSALS ARISING FROM THE MULTI-PARTY FORUM RESOLUTION ON THE TRANSITION PROCESS.

1. The Transition 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 transition 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; 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 Transition 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 Elections 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

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.

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 substantial 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.

SECOND REPORT OF THE PLANNING COMMITTEE TO THE NEGOTIATING COUNCIL

1. Introduction

- 1.1 The Resolution on the Transition Process adopted by the Negotiating Forum on 1 April 1993 constitutes the mandate for the course of action being pursued in the Negotiating Council and the Planning Committee.
- 1.2 On 26 April 1993 the Consolidated Document on the CODESA Reports, together with proposals on technical committees relating to a number of issues arising there from, were tabled at the meeting of the Negotiating Council. The focus of those proposals was the preparation for free and fair elections and the creation of a climate for free political activity.
- 1.3 The Sub-Committee report noted that two outstanding issues arising from the CODESA reports namely, the Constitution Making Body/Process and the Transitional/Interim Constitution as well as other constitutional issues listed in the Resolution on the Transition Process of the Negotiating Forum, would be dealt with in a subsequent report.
- 1.4 The Negotiating Council on 26 April 1993, decided that the Sub-Committee submit its report on the outstanding constitutional issues to the Planning Committee on 29 April 1993, in order to ensure that the report is presented at the meeting of the Negotiating Council scheduled for 30 April 1993.
- 1.5 Accompanying the proposals in this Report and the first Report of the Sub-Committee is a draft explanatory memorandum to be accepted by all participants, which underpins these proposals.

2. The Negotiating Forum Resolution

- 2.1 On 1 April 1993 the Negotiating Forum adopted a Resolution on the Transition Process instructing:

"... 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"

2.2 It should be noted that of the above list of constitutional matters, the question of the Transitional Executive Council, its Sub-Councils, the Independent Elections Committee and the Independent Media Committee have already been dealt with in the first set of proposals which were tabled at the Negotiating Council on 26 April 1993.

2.3 The current proposals therefore address the remaining constitutional matters listed in the Resolution of the Negotiating Forum.

3. Approach to the Outstanding Constitutional Matters

3.1 All these constitutional issues have a direct bearing on two specific aspects:

- * Binding Constitutional Principles
- * Constitution Making Process

3.2 The outstanding list of constitutional matters are very much interrelated:

3.2.1 Form of State can be understood in its total dimension. Descriptions of the particular Form of State that might be used in this case, may include *inter alia*, socialist state, democratic republic, Westminster parliamentary government, constitutional state, dictatorship, democracy, union or federation. The term Form of State may also be used to focus on one particular attribute of the overall constitutional form, for example the relationship between central and regional government. Whatever the term entails, the rest of the outstanding matters listed in the Resolution (Transitional Regional/Local Government; Fundamental Human Rights during the Transition; The Future of the TBVC states; and Self-Determination) are all interrelated with the Form of State, whether as determined in a final constitution or in a transitional, an interim or a next constitution. It is accordingly suggested that it may prove unproductive, or even futile, to discuss any one of these items in complete isolation. It is suggested that whenever anyone of these listed matters is the

subject of discussion in the Negotiating Council, participants should be allowed to simultaneously also deal with any or all of the others.

3.2.2 Many appellations are used to describe any particular state or aspect of a particular Form of State. Examples are social democracy, liberal democracy, parliamentary government, federation, union, unitary state, constitutional state and multi-party government. What we seek is a consensus agreement on the political and constitutional arrangements defining the relationship between the State and its constituents. The possibility of reaching understanding and accommodating what at first sight appears to be conflicting aspirations, is enhanced if the content of particular issues and aspects are addressed.

3.2.3 The Consolidated Document on CODESA Reports contains several sections on constitutional matters under the headings: "Constitutional Making Body/Process" and "Transitional/ Interim Constitution". These sections of the report(see Annexures A and B hereof), as well as extracts relating to the Future of the TBVC States (see Annexure C hereof), are attached hereto as they may be useful for focusing discussion on the constitutional matters listed in the Resolution. To cite a few examples:

3.2.3.1 Some of the principles listed stipulate that South Africa shall be a multi-party democracy with regular elections on the basis of universal suffrage on a common voters roll; that there shall be separation of powers between the legislature, executive and judiciary; and that the constitution will be the supreme law.

3.2.3.2 Another principle listed deals with the structuring of government at national, regional and local levels.

3.2.3.3 As points of reference the use of the Consolidated Report will enable each of the principles to be looked at, refined and if necessary further elaborated so as to form the basis for the possible accommodation between participants in the Multi-Party talks.

4. The Process Towards Reaching agreement

4.1 It is recommended that technical committees charged with formulating documentation in a systematic fashion under the direction of the Negotiating Council will facilitate discussion at the level of the Negotiating Council and enable participants to make structured inputs aimed at reaching accommodation.

4.2 In spite of the interrelationship of the constitutional matters listed we would suggest two technical committees:

4.2.1 A technical committee to deal with the remaining constitutional items (excluding the question of fundamental rights which is dealt with in 4.2.2. below.) as a package (Form of State and Constitutional Principles; Constitutional Making- Body/Constituent Assembly; Transitional/Interim Constitution; Transitional Regional/Local Government; Future of the TBVC states and Self Determination). This technical committee would (in no specific process order):

- * Take into account discussions in the Negotiating Council on these subjects;
- * Receive written inputs from participants; and
- * From time to time and under the direction of the Negotiating Council prepare documentation on which discussions can proceed.

4.2.2 A technical committee on the question of fundamental human rights during the transition. This technical committee would (in no specific process order):

- * Take note of discussions on this subject in the Negotiating Council; and
- * Receive written inputs on fundamental rights during the transition from any participating party;
- * From time to time and under the direction of the Negotiating Council prepare documentation on which discussions can proceed.

- 4.3 Documentation produced by each of these technical committees would be discussed at the Negotiating Council and sent back to the technical committee for further development. This process would be repeated until agreement is reached on a final document.

Annexure A

CONSTITUTION-MAKING BODY/PROCESS

1. General Constitutional Principles

1.1 The Declaration of Intent contains six general principles:

"To set in motion the process of drawing up and establishing a constitution that will ensure, inter alia:

- a. *that South Africa will be a united, democratic, non-racial and non-sexist state in which sovereign authority is exercised over the whole of its territory;*
- b. *that the Constitution will be the supreme law and that it will be guarded over by an independent, non-racial and impartial judiciary;*
- c. *that there will be a multi-party democracy with the right to form and join political parties and with regular elections on the basis of universal suffrage on a common voters roll; in general the basic electoral system shall be that of proportional representation;*
- d. *that there shall be a separation of powers between the legislature, executive and judiciary with appropriate checks and balances;*
- e. *that the diversity of languages, cultures and religions of the people of South Africa shall be acknowledged;*
- f. *that all shall enjoy universally accepted human rights, freedoms and civil liberties, including freedom of religion, speech and assembly protected by an entrenched and justiciable Bill of Rights and a legal system that guarantees equality of all before the law."*

(cf Declaration of Intent, pages 2 & 3)

1.2 In this regard, an Addendum was subsequently appended to the Declaration as a clarification to the above principles:

"For the avoidance of doubt as to the interpretation of the Declaration of Intent, it is declared by its signatories that irrespective of their individual interpretive views thereof, no provision of the Declaration of Intent, interpreted alone or in conjunction with any other provision thereof shall be

construed as -

1. *favouring or inhibiting or precluding the adoption of any particular constitutional model, whether unitary, federal, confederal, or otherwise, consistent with democracy;*
2. *preventing any participant from advocating the same or the separation, in terms of any constitutional model, of powers between a central government and the regions; during the proceedings of CODESA or any of its committees or Working Groups;"*

(cf Addendum to Declaration of Intent, page 4)

1.3 In addition to the above, the Management Committee issued a further clarification to the effect that the Declaration of Intent must be understood to allow any participant to make submissions on the question of self-determination.

1.4 The question of constitutional principles which would be binding on a Constitution-Making Body (CMB) was part of the Terms of Reference of Working Group 2. The following areas of commonality with regard to general constitutional principles were prepared by the Steering Committee and submitted to the Working Group on 12 May 1992:

- "1. South Africa will be a united, sovereign state in which all will enjoy a common South African citizenship.*
- 2. South Africa will be democratic, non-racial and non-sexist.*
- 3. The constitution shall be the supreme law.*
- 4. There will separation of powers between the legislature, the executive and the judiciary with appropriate checks and balances.*
- 5. The judiciary will be independent, non-racial and impartial.*
- 6. There will be a legal system that guarantees the equality of all before the law.*
- 7. There will be representative and accountable government embracing multi-party democracy, regular elections, universal adult suffrage, a common voters role and, in general, proportional representation.*
- 8. The diversity of languages, cultures and religions will be acknowledged.*

9. *All will enjoy universally accepted human rights, freedoms and civil liberties including freedom of religion, speech and assembly which will be guaranteed by an entrenched and justiciable Bill/Charter of Fundamental Rights.*
10. *Government shall be structured at national, regional and local levels.*
 - 10.1 *At each level there shall be democratic representation.*
 - 10.2 *Each level of government shall have appropriate and adequate legislative and executive powers, duties and functions that will enable each level to function effectively; such powers, duties and functions to be entrenched in the constitution.*
 - 10.3 *In addition to the powers, duties and functions entrenched in the constitution, each level of government may delegate powers, duties and functions to other levels of government.*
 - 10.4 *The general principles of the constitution including the terms of the Bill/Charter of Fundamental Rights shall apply to each level of government.*
11. *The new constitution shall provide for effective participation of minority political parties consistent with democracy. "*

(cf pages 43 - 44)

- 1.5 The Steering Committee also prepared a report dated 27 April 1992 recording the areas on which no agreement yet existed:

"2. *Issues on Which No Agreement Yet Exists*

- 2.1 *Economic freedom, government intervention and economic systems.*
- 2.2 *Accommodation of the diversity of languages, cultures and religions.*
- 2.3 *Role of Traditional Leaders.*
- 2.4 *The Bill/Charter of Fundamental Rights including:*
 - 2.4.1 *Its nature and scope*
 - 2.4.2 *Affirmative action*
 - 2.4.3 *Second generation rights*

2.5 *Self-determination*

2.6 *New items proposed, namely:*

2.6.1 *The role of standing committees in the formulation of legislation.*

2.6.2 *Government will be open, accessible and accountable.*

2.6.3 *Power sharing.*

3. *Draft Principles on 2.1 to 2.4 Above Prepared by the Steering Committee on 23.3.92*

3.1 *Draft principle on economic freedom, governmental intervention and economic systems:*

"The constitution should provide for the promotion of the improvement in the quality of life of all South Africans by enabling economic growth, human development, social justice and equal opportunities for all."

3.2 *Draft principle on the Bill/Charter of Fundamental Rights:*

"There shall be a justiciable bill/charter of fundamental rights which shall ensure inter alia :

- *universally accepted human rights and freedoms;*
- *civil liberties including freedom of religion, speech and assembly;*
- *the equality of all before the law;*
- *property rights, provided that legislation may in the public interest authorise expropriation against payment of reasonable compensation which shall in the event of a dispute be determined by a court of law.*

The constitution shall enable the implementation of measures to help address the racial and gender inequities caused by past discrimination."

3.3 *Draft principle on the accommodation of the diversity of languages, cultures and religions:*

"The constitution at all levels of government shall accommodate and protect the right of citizens to practice their religion, enjoy

their culture and use their own language both as individuals and in association with others. This shall include the right of citizens where practicable to have their children educated in their mother tongue and the right of citizens to establish educational institutions reflecting their language, culture and religion, provided that racial discrimination may not be practised."

3.4 *Draft principle on the role of traditional leaders:*

"The constitution should define a suitable role for traditional leaders consistent with the objective of a united, non-racial, non-sexist, democratic South Africa." "

(cf pages 41 - 42)

2. **Constitution-Making Body**

2.1 The Working Group 3 Report to CODESA 2 recorded commonality, on *pages 48 & 49*, in the following terms:

"9. *As will appear from the agreements set out below, the Working Group was of the opinion that the transition to democracy involves two preliminary stages. The first stage is one during which preparations will be made for the holding of free and fair elections for an elected parliament under an interim constitution with the power to draft in terms of agreed procedures a new constitution and to act as an interim legislature. This stage covers the whole of the period up to and including the holding of the elections. The second stage covers the period from the holding of the elections to the adoption of a new democratic constitution and the installation of a new government in accordance with the provisions of such constitution."*

2.2 This Report also recorded the following understanding:

"12. *The following agreements were reached in regard to the first stage of the transition. These agreements 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."*

2.3 The memorandum prepared by the Chairman and Secretary of Working Group 2, dated 22 June 1992, which appears on *pages 33 - 44*, records the following basis approach:

"1. *Basic approach: Constitution making within the framework of a Transitional/Interim Constitution*

1.1 *CODESA shall agree to and draft a transitional/interim constitution. This constitution shall be submitted to parliament for legislation within two months of this agreement and all parties within Codesa in parliament commit themselves to supporting such legislation.*

1.2 *The transitional/interim constitution shall make provision for the constitution making process through which, and the constitution making body by whom, a final constitution shall be drafted and adopted."*

(cf page 36)

2.4 Working Group 2 was seized with three proposals which appear on *pages 34 - 35*, aimed at resolving the deadlock which had arisen. All three proposals were based on the premise that the elected National Assembly would draft and adopt the final constitution.

2.5 From the point of view of constitution making, the National Assembly shall be elected on the basis of proportional representation and universal adult suffrage, half the seats being allocated through national lists and half through regional lists, in order to ensure proper representation of regions.

(cf paragraphs 3.1.2, 3.2.1, page 37)

2.6 On the binding nature of the constitutional principles, the following was recorded:

"3.8.1 CODESA shall agree on a set of general constitutional principles to be enshrined in the final constitution and which shall not be contradicted by any provision of the final constitution.

3.8.2 The transitional/interim constitution shall contain an entrenched provision prescribing that the final constitution shall give effect to paragraph 3.8.1 and shall establish an independent mechanism which will be the only body to determine that the general constitutional principles have been enshrined and not contradicted in the final constitution; which determination may only be initiated by a party in the NA."

(cf page 39)

2.7 On the question of time frames and deadlock-breaking for the CMB, the following is recorded:

"4. Special Mechanisms

Codesa shall agree on special mechanisms to ensure that the national assembly completes the work of drafting and adopting the final constitution within a specified period of time. The transitional/interim constitution shall remain in force until replaced by the final constitution."

(cf page 39 of the Volume on CODESA Agreements)

(cf pages 30-36 of the Consolidated Report.)

TRANSITIONAL/INTERIM CONSTITUTION

1. The Working Group 3 Report records the following:

"9. As will appear from the agreements set out below, the Working Group was of the opinion that the transition to democracy involves two preliminary stages. The first stage is one during which preparations will be made for the holding of free and fair elections for an elected parliament under an interim constitution with the power to draft in terms of agreed procedures a new constitution and to act as an interim legislature. This stage covers the whole of the period up to and including the holding of the elections. The second stage covers the period from the holding of the elections to the adoption of a new democratic constitution and the installation of a new government in accordance with the provisions of such constitution."

(cf page 48)

2. The Transitional/Interim Constitution (as distinct from the final constitution) shall be agreed upon in CODESA.
3. The Transitional/Interim Constitution shall make provision for the following:

"3.1 A Legislature

The legislative authority shall vest in a democratically elected interim/transitional parliament consisting of a National Assembly and a Senate functioning in terms of the special majorities and general constitutional principles agreed upon.

3.1.1 *The structure and role of the Senate must still be agreed upon.*

3.1.2 *The National Assembly shall be elected on the basis of proportional representation and universal adult suffrage, half the seats being allocated through national lists and half through regional lists in order to ensure proper representation of regions."*

(cf page 37)

"3.3 An Executive

3.3.1 *Executive authority shall vest in a multiparty executive in accordance with the principle of an interim/transitional government of national*

unity.

3.4 The separation of powers

There shall be a separation of powers between the executive, legislature and judiciary according to the principles underlying a constitutional state.

3.5 Fundamental Rights

CODESA shall agree on justiciable fundamental rights which shall form part of and shall be entrenched in the transitional/interim constitution.

3.6 Regional Government

3.6.1 *CODESA shall agree on the boundaries, powers, duties and functions of regional governments.*

3.6.2 *Provision shall be made for regional government and/or the phasing in of such government with the boundaries, powers, duties and functions as referred to in paragraph 3.6.1.*

3.6.3 *The transitional/interim constitution shall entrench regional government and its boundaries, powers, duties and functions in the transitional phase and the transitional/interim constitution shall in this regard not be amended without the agreement of all the parties in the National Assembly until the adoption of a new constitution in terms of the procedures set out in 3.2.*

3.7 Provisions regarding amendments to the transitional/interim constitution.

Amendments shall only be of force and effect if:

3.7.1 *They do not contradict the set of constitutional principles referred to in paragraph 3.8.1.*

3.7.2 *They have been adopted according to the procedures set out in paragraph 3.2."*

(cf page 38 of the Volume on CODESA Agreements)

(cf pages 37-38 of the Consolidated Report)

Annexure C

4.4 Working Group 4 : The future of the TBVC states

(The full text of agreements appear on pages 66-73 of the Volume on CODESA Agreements)

The report recorded:

- 4.4.1 Agreement in principle to the reincorporation of the TBVC states
- 4.4.2 Agreement that the TBVC states will participate in the transitional arrangements as projected by Working Group 3, on the understanding that these arrangements shall impact mutatis mutandis on the TBVC governments and territories in the same way that they impact upon the South African government and the territory of the RSA.
The Bophuthatswana government reserved its position
- 4.4.3 Agreement that the TBVC states shall take part fully in the process of constitution making and the transitional arrangements, including elections, as may be proposed by Working Groups 2 and 3. Their participation will be arranged in such a way that their vote in a national election shall signify support for, or rejection of reincorporation thus constituting a test of the will of the people. (Reservations were expressed by the Bophuthatswana government)
This will lead to the restoration of South African citizenship to all citizens of the TBVC states who would have been South African citizens had the TBVC states not come into existence.(Reservations by the Bophuthatswana government were expressed)
- 4.4.4 Consensus was reached on a number of issues in relation to the practical, financial and administrative effects of reincorporation.

Negotiating Forum: Resolution on Violence

**Proposals submitted to the
Negotiating Council : 26 April 1993**

1. On 1 April 1993 the Negotiating Forum adopted a Resolution on Violence. A copy is attached.
2. In the concluding paragraphs the Forum resolved
 - to identify the issues that cause violence, threaten the negotiating process and undermine the effective implementation of the National Peace Accord;
 - to mandate the Negotiating Council to establish what urgent steps and mechanisms are required to resolve those issues as a matter of national priority.

The Negotiating Council has to report on these issues to the next meeting of the Negotiating Forum.

- 3.1 That the entire question of violence shall be constantly on the agenda of the Negotiating Council and the Planning Committee and that all parties will be afforded the opportunity at all times to bring concrete proposals to be considered as further steps to what is currently being done in order to curb violence.
- 3.2 In the meantime we recommend the following practical steps to be taken immediately in order to enhance the peace process and curb the violence:
 - 3.2.1 That the Negotiating Council adopt a draft declaration on Monday 26 April 1993 further committing all participants to peace and negotiations and calling upon all their supporters and the public at large to take active steps to promote peace.
 - 3.2.2 That the process initiated by the National Peace Accord and its structures be strengthened. In this regard the Consolidated Document contains a number of proposals for the strengthening of the Peace Accord Process. These proposals together with any other proposals emanating from the experience of the National Peace Committee plus any proposals that may be forthcoming from participants should constitute a basis for a Technical Committee to be set up whose task it would be to prepare a systematic set of proposals for the strengthening of the Peace Accord process. Technical Committees' proposals shall be submitted to the Planning Committee, further processed by it and be brought to the Negotiating Council for

finalisation. The Executive Committee of the National Peace Committee shall be asked to nominate three persons to constitute the Technical Sub-Committee.

3.2.3 Security Forces and Armed Formations

This is the question that requires urgent attention, both in its own right and because of its impact on the negotiating process. The Consolidated Document on pages one and two contains the recommendations as they emerge in the CODESA process. We propose that, if the Negotiating Council approves the Technical Committee recommended on the TEC, that this issue should be entrusted to the same Technical Committee with the proviso that the Technical Committee address this question as a matter of priority.

The report of the Technical Committee shall be tabled before the Planning Committee for it to further process the proposals and submit them to the Negotiating Council for finalisation.

3.2.4 Other measures

We propose as an additional and immediate measure that the Negotiating Council appoint a Technical Sub-Committee to conceptualise and work out ways and means to bring about the formation of a peace corps through which especially the young people of our country can become actively involved in bringing about peace in the community, reconstruction, training and reconciliation.

This report shall be tabled and further processed at the Planning Committee with a view to bringing the proposal to the Negotiating Council.

4. All the above recommendations shall be submitted to the Negotiating Council on Monday 26 April 1993 for consideration and decisions. All parties are urged to come forward with additional suggestions on an ongoing basis.

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.

DRAFT MOTION ON VIOLENCE

We, the participants of the Negotiating Council meeting at the World Trade Centre on 26 April 1993:

NOTING

- * The Resolution on Violence taken by the Negotiating Forum on 1 April 1993;
- * The tragic events of the past weeks and the escalation of violence in our country;
- * The detrimental effect this can have on the negotiating process and the peaceful settlement of the political problems of our country.

NOTING FURTHER

- * That many leaders and political formations have expressed themselves increasingly and with greater forthrightness and urgency on the need to curb violence;
- * That there is a growing perception amongst the public of the need for a concerted movement for peace.

HEREBY RESOLVE

- * To re-commit ourselves personally and collectively to peace; and undertake effective action, jointly and severally, leading the eradication of violence and the attainment of peace;
- * To express our sincerest condolences to the families, friends and colleagues of all South Africans who have recently died, irrespective of race, political affiliations or religious beliefs;
- * To instil a sense of all pervasive urgency in the negotiating process;
- * To call on our followers and members to desist from any form of violence or intimidation and to give the negotiating a real chance to bring our country through a peaceful transition to a non-racial and democratic dispensation;
- * To do everything in our power to strengthen the National Peace Accord and its structures.

*Proposals to the
Negotiating Council on the
appointment of
Technical Sub-Committees
and their Terms of Reference on
certain matters arising from
The Consolidated Document*

*Submitted by the Planning Committee on
26 April 1993*

PROPOSAL ONE : THE INDEPENDENT ELECTION COMMISSION

1. We propose that the Planning Committee discuss the following and approve of the following issues to constitute the Terms of Reference of a Technical Sub-Committee charged with the task of drafting a legislative framework for the Independent Election Commission. Such a framework will constitute the basis for discussion at the Negotiating Council/Forum:

2. Terms of Reference of the Technical Sub-Committee:

2.1 **Aims**

Proposals for the establishment of an Independent Election Commission (IEC), charged with the responsibility of conducting the elections, monitoring the election process and the elections, and to act as adjudicator and arbitrator on matters related thereto. These proposals are for the national elections. Where regional elections are concerned new formulations will have to be considered.

2.2 **The Independent Election Commission**

2.2.1 The IEC shall be appointed by the State President upon the recommendation of the Multi-Party Forum.

2.2.2 The IEC shall consist of 7-11 members.

2.2.3 The Chairperson and Deputy Chairperson/s of the IEC shall be appointed by the State President on the recommendation of the Multi-Party Forum.

2.2.4 In order to enable the IEC to act impartially and in a non-partisan way, the following conditions and criteria shall apply:

2.2.4.1 There are three options with regard to membership of the IEC:

(a) The IEC will consist of respected and suitably qualified persons, drawn from a broad cross section of the population, all of whom shall be eligible voters;

(b) A specified number of the IEC will be assigned to persons seconded from international organisations. These shall enjoy equal status with those who are drawn from eligible voters;

(c) The IEC shall have a specified number of seats

assigned to persons seconded from the international community and that such persons shall function in the IEC in a known voting capacity.

2.2.4.2 Members of the IEC shall be appointed in their individual capacities and not as representatives of any political parties, organisations, administrations, governments and/or interest groups.

2.2.4.3 Appointees shall divest themselves of any political office while serving on the IEC.

2.2.4.4 No member of the IEC shall be an office-bearer or official of any political party/organisation or candidate in the election.

2.2.4.5 Members of the IEC shall not hold any other office which may give rise to a conflict of interest while serving on the IEC.

2.2.5 Vacancies in the IEC: Vacancies shall be filled by the State President, on the recommendation of the Multi-Party Forum (MPF) or Transitional Executive Council (TEC) whichever is appropriate at the time.

2.3 Functioning of the IEC

2.3.1 Members of the IEC shall serve on a full-time basis for the duration of the term of the IEC.

2.3.2 All decisions of the Commission shall be taken by a means of a vote and a simple majority shall be sufficient to bind the Commission.

2.3.3 In the event of a deadlock, the Chairperson of the Commission shall have a casting vote.

2.4 Status of the IEC

2.4.1 The IEC shall be independent of all governmental organisations.

2.4.2 The composition, powers, and functions of the IEC shall be enacted in legislation to be agreed to by the MPF.

2.4.3 The IEC shall be independent of the TEC.

2.4.4 In the event that the TEC decides to establish a Sub-council on Elections, such appointment will not interfere in any way with the

independence or powers of the IEC.

2.4.5 The sole obligation of the IEC to any other organ of government shall be to supply written reports to the TEC, on its decision in respect of the organisation and conduct of the elections.

2.5 Accountability and Finance

2.5.1 The IEC shall liaise with the TEC and the Independent Media Commission (IMC) on matters pertaining to the work of these bodies.

2.5.2 The IEC shall, from time to time, determine a budget to meet the reasonable costs of carrying out its powers, duties and functions in accordance with the enabling legislation.

2.5.3 The budget shall be presented to the TEC for approval and action.

2.5.4 The South African Government shall provide the funds necessary to cover the budget of the IEC.

2.6 Powers, duties and functions of the IEC

2.6.1 The IEC shall have the sole and ultimate responsibility for the organisation, conduct and supervision of the election.

2.6.2 In announcing the results of the election, the IEC shall have the responsibility of certifying whether, and to what extent, the elections have been free and fair.

2.6.3 In particular the IEC shall:

2.6.3.1 Administer the conduct of the elections.

2.6.3.2 Monitor the election process and the elections in order to: (a) ensure that the process and the elections are free and fair, and (b) enable the IEC to eventually certify the results of the elections.

In the execution of this function, the IEC may make use of, and act in conjunction with, local and international observers.

2.6.3.3 Act as an adjudicator and arbitrator on matters related to the election process and the elections referred to it by political parties, organisations, the public at large and/or the TEC.

In the execution of this function, the IEC may involve

international participation.

2.7 In order to discharge effectively and impartially the functions outlined in paragraph 6 above, the IEC shall supervise and establish separate and independent structures to execute each of the three tasks contained in paragraphs 6.3.1, 6.3.2 and 6.3.3 above. Each of these structures shall be accountable to, and coordinated by, the IEC. Provision can be made for the UN, EEC, Commonwealth and OAU to second four suitably qualified persons to serve in each of these three structures, depending on the option chosen under 2.4.1 above.

2.8 Provision shall be made for the promulgation of rules and regulations necessary for the discharge of the functions of the IEC.

2.9 **Eligibility of voters**

All South African citizens 18 (eighteen) years and above. This will include citizens of the TBVC states. The MPF/TEC shall look into whether changes are necessary to citizenship laws.

2.10 **Registration of political parties/organisations for purposes of elections**

All parties intending to participate in the elections shall be required to register with the IEC.

NB. There is a need for the MPF to agree upon measures to prevent abuse.

2.11 **Administering the elections**

The IEC shall be empowered, inter alia, to:

2.11.1 Make provisions for the identification of eligible voters.

2.11.2 Formulate a Code of Conduct for potential parties and to ensure that each party commits itself to peaceful electioneering and solemnly and publicly commits itself to such a Code of Conduct. Such a Code of Conduct should include suitable penalties for violations of the Code.

2.11.3 Receive and regulate the registration of parties that wish to participate in the elections.

2.11.4 Determine and supervise the campaign funds and election expenditure.

2.11.5 Promulgate laws and regulations for political advertising.

2.11.6 Educate the public about the electoral process through voter

education programs using radio, television and other means.

2.11.7 Set up an appropriate machinery throughout the country and appoint appropriate staff for the purposes of fulfilling its functions.

2.11.8 Make provision for and ensure that no voter votes more than once, that ballot boxes are properly sealed, that counting of votes is conducted in a manner that ensures accuracy and reliability.

2.12 **Monitoring the election process, in order to ensure that the elections are free and fair**

The IEC shall be empowered, inter alia, to:

2.12.1 Set up the necessary structures, countrywide, to observe, monitor and verify the entire process of the elections, before, during and after polling.

2.12.2 Make suitable provision for the international community organisation to participate in this process.

2.12.3 Take steps to prevent any intimidation.

2.12.4 The IEC shall be empowered to take steps to prevent corrupt and illegal practices.

2.13 **Adjudication and arbitration**

The IEC shall be empowered to, inter alia, to:

2.13.1 Serve as a final arbiter of any claims or disputes submitted by persons, political parties, organisations, administrations, governments and the TEC.

2.13.2 Establish appropriate machinery throughout the country for the speedy investigation of complaints concerning electoral irregularities, refusal of access to venues or meetings, and access to voters, intimidation and breaches of a Code of Conduct for political parties.

2.14 **General**

The IEC shall be empowered to make such other arrangements as may be necessary for the proper exercise of its functions.

● The Technical Sub-Committee should be composed of three to four persons suitably qualified to translate the above mandate into a legislative framework.

**PROPOSAL TWO : STATE CONTROLLED/STATUTORILY
INSTITUTED MEDIA**

1. Paragraph 2 below outlines the Terms of Reference for two institutions, vis the Independent Telecommunications Authority and the Independent Media Commission. Both are inter-related and we propose that a single Technical Sub-Committee be appointed to use the Terms of Reference as a point of departure for drafting the necessary legislative framework.

2. Terms of Reference:

2.1 Two mechanisms are involved in this regard:

2.1.1 Independent Telecommunications Authority

2.1.2 Independent Media Commission

2.2 The Independent Telecommunications Authority (ITA)

2.2.1 **Aim**

The creation and establishment of an Independent, neutral body to regulate the telecommunications sector, whose principal tasks are:

2.2.1.1 The regulation of the utilization of the electromagnetic spectrum, including the allocation of licenses and the determining of license conditions according to an agreed set of standards.

2.2.1.2 The appointment of a suitable structure to monitor the proper exercise of license conditions.

2.2.2 The report of Working Group 1 on this matter is sufficiently detailed to enable a technical sub-committee to prepare a draft legislative framework.

2.2.3 From the point of view of structure we propose the following:

2.2.3.1 An executive type of structure made up of respected and suitably qualified persons drawn from the broad cross-section of the population and representatives of the technical committees.

2.2.3.2 Technical committees dealing with:

* Electronic media

* Telecommunications

2.2.4 The ITA and IMC as well as boards of broadcasters will operate in accordance with the following guidelines:

2.2.4.1 An Act of Parliament which sets out broad principles.

2.2.4.2 Code(s) of Conduct broadly set out in the Multi-Party Negotiations and finalized by the ITA and the IMC themselves.

2.3 The Independent Media Commission (IMC)

2.3.1 **Aim**

The aim of an IMC is the levelling of the media playing fields in the period leading up to the elections, in respect of:

2.3.1.1 The monitoring of the electronic media, to ensure the impartiality, fairness and compliance with licensing conditions and fair access to such media.

2.3.1.2 The monitoring of state controlled/statutorily controlled media, including those in the TBVC states, to ensure their neutrality and impartiality.

2.3.2 **Composition**

2.3.2.1 The IMC shall consist of 7 - 11 members, appointed by the State President in consultation with the Multi-Party Forum (MPF)/Transitional Executive Council (TEC), whichever is appropriate at the time.

2.3.2.2 The MPF/TEC shall decide on the mechanisms for the appointment of the IMC, including public nominations, by political parties/organisations and interest groups, as well as a representative and transparent process.

2.3.2.3 Criteria for appointment of the IMC

2.3.2.3.1 Appointees shall be South Africans of merit and high standing.

2.3.2.3.2 They shall perform their duties in the public interest.

2.3.2.3.3 Appointees shall divest themselves of any political office while serving on the

IMC.

2.3.2.3.4 Appointees shall not be office-bearers of any political party/organisation or have a vested interest in the media industry.

2.3.2.3.5 The IMC shall collectively reflect the cross-section of the South African population.

2.3.2.3.6 The IMC shall have within its ranks individuals with the necessary legal expertise.

2.3.3 A Member of the IMC

2.3.3.1 Shall hold office for such a term as designated for the IMC.

2.3.3.2 May vacate his/her office for reasons pertaining to the criteria mentioned in 3.2 above and/or accepted by the TEC.

2.3.3.3 May, in the case of 3.3.2 above, be replaced, in accordance with the procedure for the nomination of the IMC in the first place.

2.3.4 Chairperson

The Chairperson of the IMC, shall be appointed by the State President in consultation with the MPF/TEC, whichever is appropriate at the time.

2.3.5 Powers, functions and duties

2.3.5.1 In order to attain the objective set out in paragraph 3.1 above, the IMC shall monitor:

2.3.5.1.1 The programme content of the electronic media for breaches of licensing conditions and the provisions of any Code of Conduct. In this regard, it shall act in cooperation with any similar structure set up for the regulation of the telecommunication sector.

2.3.5.1.2 Governmental media, to ensure that they do not favour or prejudice any political

party/organisation.

2.3.5.2 The IMC shall serve as adjudicator for the hearing of complaints against inaccuracies or partiality, or the denial of fair access on the part of the electronic media, and shall have the power to order the rectification of any offensive conduct.

2.3.5.3 The IMC shall oversee the transformation of broadcasting, including the integration of the TBVC broadcasters into the new dispensation, and resolve any disputes that may arise, for instance: between the ITA and Board/s of broadcasters.

2.3.5.4 The IMC shall execute its functions in a manner which ensures the necessary effectiveness. It may:

2.3.5.4.1 Consult any person for the purposes of obtaining expert advice on any matter; and

2.3.5.4.2 Appoint sub-committees to perform such functions and duties as it may determine, from time to time.

2.3.6 Accountability, Finance and Referral

2.3.6.1 The IMC shall operate as an independent body.

2.3.6.2 It shall liaise with the ITA, the Independent Election Commission (IEC) and the TEC on matters pertaining to the work of these bodies.

2.3.6.3 The IMC may, in its discretion, refer any matter involving transgression by a licensee of licensing conditions to the ITA, for such action as may be deemed necessary.

2.3.6.4 The IMC shall be afforded the necessary finance to carry out its functions, and, in this regard, it shall be accountable to the TEC.

2.3.7 Structure

The IMC shall have a Secretariat and such infrastructure as it may deem necessary to carry out its functions.

2.3.8 Term of Office of the IMC

Subject to review by the Interim Parliament.

2.3.9 Code of Conduct

2.3.9.1 The IMC shall carry out its functions and exercise its powers in accordance with a Code of Conduct for all licensed broadcasters, as well as one specifically applicable to the national service broadcaster (SABC and public broadcasters of the TBVC territories).

2.3.9.2 Such a Code of Conduct would form part of the licensing conditions of the ITA.

2.3.9.3 Matters which could be contained in any Code of Conduct will, inter alia cover the following:

2.3.9.3.1 Public media should serve society as a whole and be independent of political parties.

2.3.9.3.2 All parties shall be afforded fair and reasonable access to air their views, including such aspects as the right of reply, prime-time access, public withdrawals by offending parties etc.

2.3.9.3.3 Broadcasters must be impartial in dealing with news, commentary, interviews and current affairs programs.

2.3.9.3.4 Privacy of sources of media workers' information shall be protected.

2.3.9.3.5 Programmes shall take into account cultural and language diversity within society.

2.3.9.3.6 Broadcasters shall promote peace, justice, democracy and freedom of thought, conscience and religion.

2.3.10 Print Media

The IMC shall liaise with the Media Council on election matters pertaining to the print media.

PROPOSAL THREE : AMENDMENT AND/OR REPEAL OF LAWS MILITATING AGAINST FREE POLITICAL ACTIVITY, INCLUDING THE ELIMINATION OF ALL DISCRIMINATORY LEGISLATION

1. The Terms of Reference should be based on the Report of Working Group 1 (cf page 10 - 17 of the Consolidated Document and of the Gender Advisory Committee of the various reports of the Gender Advisory Committee).
2. In order to move the issue beyond general discussion, we propose the appointment of a Technical Sub-Committee of three to four persons with the necessary expertise and experience.
3. Their task would be at this stage to produce a report which would include the TBVC States, and would contain two schedules:
 - 3.1 A schedule of laws obtaining each of these areas which should be repealed with brief motivation for each of the laws involved.
 - 3.2 A schedule of legislation which should be amended, the specific clauses requiring amendment, the nature of the amendment and a brief motivation.
4. The Technical Sub-Committee may also set up specialised Sub-Committees each to give attention to the relevant legislation in the Transkei, Bophuthatswana, Ciskei and Venda.

PROPOSAL FOUR : THE TEC AND ITS SUB-COUNCILS

1. The Consolidated Document deals with matters relating to the TEC under the title Transitional/Interim Constitution (cf 22).
2. We suggest that a Technical Sub-Committee be appointed which would take as its Terms of Reference the Report appearing in the Consolidated Document.
3. It would draft the above in the form of a systematic and itemised set of proposals to facilitate discussion in the Planning Committee and the Negotiating Council.
4. Its Terms of Reference would exclude those matters arising from the above report which have been allocated to other Technical Sub-Committees, e.g. The Independent Election Commission and The Independent Media Commission.