

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 14h45 ON MONDAY 16 AUGUST 1993 AT THE WORLD TRADE CENTRE

PRESENT: See Addendum A

1. Moment of Prayer/Meditation

A moment of prayer/meditation was observed by all members.

2. Welcome and Attendance

The participants were welcomed.

3. Ratification of the Agenda

The agenda was ratified with no amendments.

4. Minutes

4.1 Ratification of Minutes:

4.1.1 The minutes of the meeting of 9 August 1993 were ratified with the following amendments:

- * Item 6.5.1, the eighth asterisk refers : The word "electoral" should be deleted.
- * Item 6.5.2, the fifth asterisk should read "The boundaries of the Eastern Cape, the relationship of it's components and the question of whether the Eastern Cape should be one or two regions."
- * Item 6.5.2, the eighth asterisk refers : The word "Middleburg" should read "Middelburg".

4.1.2 The minutes of the meeting of 10 August 1993 were ratified with the following amendments:

- * Item 6.9, the second asterisk refers : the word "decide" should

read "decided".

- * Item 6.11, the third asterisk refers : The word "time" should be deleted.
- * Item 6.14 refers : The word "ceases" should read "cease".
- * Item 6.15 refers : The word "State" should read "Senate".

4.1.3 The minutes of the meeting of 11 August 1993 were ratified with no amendments.

4.2 **Matters arising out of the Minutes:**

No matters arising were noted out of the minutes of 9 August, 10 August and 11 August 1993.

5. **Reportback from the Planning Committee**

5.1 **Constitutional Issues:**

It was noted that the issue of Confederalism, self-determination and the outstanding constitutional principles would be dealt with in the course of the week commencing 23 August 1993 when Constitutional Issues next appeared on the agenda of the Negotiating Council.

5.2 **Participation of Women:**

5.2.1 It was noted that the Planning Committee would place a recommendation on this issue before the Negotiating Council in the course of the day.

5.2.2 After the afternoon tea break the following was noted:

- * The Planning Committee recommended that two women be added to the composition of the Planning Committee and to the Panel of Chairpersons respectively. This recommendation was agreed to by the Negotiating Council.
- * The criteria used by the Planning Committee for selection was agreed to by the Negotiating Council.
- * Although the Planning Committee had a recommendation to put forward to the Negotiating Council with regard to the participants, the women delegates wanted to consider the issue first. It was therefore agreed that the Planning Committee's recommendation would be put before the Negotiating Council at its next meeting.

5.3 Draft Programme:

It was noted that the draft programme was still under consideration by the Planning Committee. A recommendation would be placed before the Negotiating Council in the course of the day.

5.4 Technical Committee on the Independent Electoral Commission:

It was noted that the submission as submitted by the Labour Party dealing with the role of the International Community was still under consideration in the Planning Committee. Liaison was also proceeding with this Technical Committee on this issue.

5.5 Technical Committee on Fundamental Human Rights during the Transition:

It was noted that no issue with regard to Traditional Leaders had been placed by the ad-hoc committee before the Planning Committee for its attention. It was further noted that only Item 4 of the additional matters as referred to in the Seventh Progress Report of the Technical Committee had been referred to the Planning Committee for its attention.

6. Substantive Issues

6.1 Eighth Working Draft of the Bill on the TEC and its Sub-Councils:

6.1.1 The Technical Committee was welcomed. Present were Z du Toit, F Haysom, CJ Heunis, J Renene and D van Wyk. Apologies were noted from E Mapheto. The Technical Committee presented a brief report on changes that it had made to its Eighth Working Draft since the last meeting of the Negotiating Council. It was agreed not to discuss the amendments until they had been placed before the Negotiating Council in writing.

6.1.2 Clause 11 "General Powers of Subcouncils" refers:

- * Questions of clarity were put to the Technical Committee.
- * It was suggested that the following phrase be added as an additional sub-clause : "11 (e) Address the implications of the implementation of its terms of reference in relation to the status of women." It was noted that the SACP would make a written submission to the Technical Committee in this regard.
- * It was suggested that clause 11 (1) be amended by adding a

clause compelling each Subcouncil to report its recommendations or decisions to the TEC. Such a clause would be complementary to the clause dealing with the powers of the Council (clause 7 (3) (a)). It was noted that the Transkei would make a written submission to the Technical Committee in this regard.

6.1.3 Clause 12 "Powers and duties in regard to regional and local government" refers:

- * Questions of clarity were put to the Technical Committee.
- * It was noted that the Traditional Leaders withdrew their proposal to have a separate Subcouncil on Traditional Leaders as their concerns could be addressed within the Subcouncil on Local and Regional Government.
- * It was suggested that remuneration of Traditional Leaders should be addressed through the Subcouncil on Local and Regional Government and that this issue should be taken over with immediate effect by the Subcouncil. The Technical Committee was requested to consider this issue. It was agreed that participants should make submissions on this issue if they so wished. The Technical Committee would base its recommendations on the submissions and views expressed in the meeting.
- * The Technical Committee was requested to consider concerns raised around the term local government. Clause 12 (a) was referred to.
- * It was proposed that if any executive appointments above a certain level have to be made, it shall be done in consultation with the Subcouncil or the TEC. Secondly, it was suggested that the TEC or its Subcouncil be empowered to arrange for the restructuring or reconstitution of the present provincial executive committee if in the opinion of the Subcouncil it has an impact on the levelling of the playing fields and free and fair elections. It was noted that the NPP would make a written submission to the Technical Committee in this regard.
- * It was suggested that the procedures and decisions of the TEC and its Subcouncils should be in conformity with the public forums, as referred to in 12 (d).
- * It was suggested that all references to the Local Government Negotiating Forum (LGNF) should be deleted in Clauses 12 (d)

and (e).

- * It was noted that a meeting had been held between the Planning Committee and the LGNF and a liaison mechanism was to be established. Furthermore, the liaison mechanism would serve as a way to exchange views between the LGNF and the Multi-Party Negotiating Process and would ensure mutual inputs. The liaison mechanism would be utilised to address concerns expressed in the meeting by participants. On this understanding it was agreed to accept clause 12 (d) with no amendments.
- * It was suggested that other related bodies should be approached for consultation as referred to in clause 12 (e).
- * It was suggested that the word "reconstitution" should be inserted after the word "restructuring" in clause 12 (e).
- * It was suggested that the words "and bodies" should be inserted in clause 12 (e) after the word "administrations".
- * It was suggested that with regard to clause 12 (e) a formulation should be considered by the Technical Committee that takes the executive arm into account as well.
- * It was suggested that clause 12 (f) was not necessary. After discussion, it was agreed that the Technical Committee reconsiders this clause.
- * It was suggested that the word "provincial" in clause 12 (g) (i) should be deleted.
- * It was agreed that the word "effect" in clause 12 (h) (i) should read "affect".
- * It was suggested that clause 12 (h) (ii) be reformulated for clarity.
- * It was noted that the Technical Committee had accepted a suggestion made on 27 July 1993 to amend the definition of regional government to include provinces, TBVC States and Self-Governing Territories.

The meeting adjourned for tea at 16h10.

The meeting reconvened at 17h00.

6.1.4 Clause 13 "Powers and duties in regard to law and order, stability and security" refers:

- * It was suggested that with regard to this clause, no real powers had been entrusted to the TEC.
- * It was suggested that the Negotiating Council would have to decide whether the TEC was to be an executive or not.
- * The issue of the joint control of the security forces was raised.
- * It was suggested that, to recognise the power that the TEC has, the Bill should be read as a whole.
- * The Technical Committee was requested to reconsider whether clause 13 (1) (a) required reformulation taking into account the views expressed in the meeting.
- * It was suggested that the following words should be considered by the Technical Committee as a new clause 12 (1) (a) "To establish a mechanism notwithstanding anything to the contrary contained in any other law, whereby:
 - All ministerial/executive and administrative decisions above a rank still to be determined shall be taken only with the approval of the Council;
 - The administration of law and order shall be undertaken jointly by the Minister and the Council."

The NPP noted that it would make a written submission in this regard.

- * It was suggested that, with regard to clause 13 (1) (c), the words "in consultation with the appropriate Ministers" should be deleted and the clause reformulated to be consistent with the other proposals in the Draft Bill.
- * It was suggested that the taking of an oath to secrecy should be accommodated in clause 13 (1) (d).
- * It was suggested that the word "recommend" in clause 13 (1) (g) should be removed and replaced with a word to give the Subcouncil the power to improve the effectiveness of and community co-operation with policing agencies.

- * The Technical Committee noted that it required further submissions with regard to clause 13 (1) (i).
- * It was agreed that clause 13 (1) (l) be accepted with no amendments.
- * It was suggested that the words "and other appropriate structures of the Peace Accord" should be accommodated in clause 13 (1) (m).
- * It was suggested that clause 13 (2) (a) be amended to state that a state of emergency could only be declared by the Minister concerned with the approval of the Subcouncil of law and order, stability and security.
- * It was agreed that the Negotiating Council would revisit the issue of terminology used at the end of the discussion of the whole of the Bill.
- * It was suggested that in the event of a dispute, the police board would be an inappropriate body to deal with it. (clause 13 (2) (c) refers). It was further suggested that the appropriate body would be an elections appeal tribunal. The Technical Committee was requested to provide the Negotiating Council with a general formulation in this regard at a later stage for discussion.
- * It was suggested that the Negotiating Council needed to address the question whether there should be a specific and different deadlock breaking mechanism in this Committee in relation to other Committees (clause 13 (2) (c) refers.)
- * It was agreed that the Technical Committee considers the possibility and/or desirability of a single dispute resolving mechanism taking into account the views expressed in the meeting (clause 13 (2) (c) refers). It was suggested that a decision should also be taken on the type of person to compose such a structure. It was agreed to leave this issue pending subject to further discussions in respect of other matters and the package as a whole with regard to dispute resolving mechanisms for the TEC should then be considered.
- * It was agreed that the word "civilian" be inserted between the words "the" and "members" in the last sentence of clause 13 (2) (d).
- * It was suggested that comments expressed in the meeting with

regard to clause 13 (2) (c) should be taken into account, with regard to clause 13 (5) as well.

- * It was agreed that in clause 13 (6) (a) provision should be made for a single authority. The Technical Committee was requested to formulate the clause appropriately.
- * It was suggested that there needed to be a clear and direct linkage between the TEC and its Subcouncils.
- * It was suggested that all decisions of consequence should be referred to the TEC for endorsement and only decisions on routine and administrative matters should be taken by the Sub-Council, giving notice to the TEC. It was further suggested that this would allow for the reaching of greater consensus on issues. The Technical Committee stated that it would reconsider this issue.
- * It was suggested that the Negotiating Council should re-examine the terminology "in consultation with the Subcouncil" where ever such reference appeared in the Bill.

6.1.5 Clause 14 "Powers and duties in regard to defence" refers:

- * Questions of clarity were put to the Technical Committee.
- * It was noted that the SA Government would make submissions on this clause to the Technical Committee regarding technical and drafting points and not matters of substance.
- * It was suggested that there was a need for more civilian control over the military forces and therefore this Subcouncil should be considerably larger than the other Subcouncils (clause 14 (1) (a) refers).
- * It was noted that a proposal was still to come before the Council concerning a mechanism to be appointed by the TEC that could be used to investigate secret allegations of the SADF and its conduct (clause 14 (1) (c) refers).
- * It was suggested that the word "legally" be inserted after the word "made" in clause 14 (1) (e).
- * It was suggested that there was a need for the Subcouncil to have a permanent advisory board consisting of people from the civilian sector and military experts from an academic or business background (clause 14 (1) (f) refers). It was noted

that the DP would make a submission on this issue to the Technical Committee.

- * It was suggested that an advisory committee also be established with regard to clause 14 (1) (j).
- * It was suggested that more clarity was needed on the definition of non-governmental military forces.
- * It was suggested that the Technical Committee should consider the need or otherwise of this Subcouncil considering regularising the position in respect of South Africa's various defence treaties, co-operation agreements, joint training, etc.
- * It was suggested that where the word "review" appears in the clauses, the word "regularly" should be inserted alongside.
- * It was suggested that the words "defence force" should read "military force" in clause 14 (4) and (5).
- * It was suggested that the following or similar words should be inserted in clause 14 (6) after the words "peace keeping operations" : "The dispute or difference should be referred to the TEC for attention. Should the TEC fail to agree, the dispute should then be referred to the provisions of section 21 mutatis mutandis".
- * It was suggested that the proviso at the end of clause 14 (7) should be widened/broadened to include guidelines and not only limitations.

6.1.6 Due to time constraints it was agreed to suspend the debate on this report. The debate would be resumed at the next meeting of the Negotiating Council.

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

6.2 **Walvis Bay:**

6.2.1 A draft resolution on this issue was tabled in the meeting. Lengthy discussion and debate proceeded around the proposed resolution.

6.2.2 Various amendments to the resolution were put forward. It was agreed to adjourn for tea at 19h50 during which the proposed amendments would be processed by the Planning Committee.

6.2.3 The meeting reconvened at 20h15 and the amended draft resolution as put to the meeting was adopted by general consensus (see Addendum B).

6.3 Burnt Identity Documents:

6.3.1 The issue of burnt identity documents was raised in the meeting, with various concerns and viewpoints being expressed in the discussion that followed.

6.3.2 After lengthy debate and discussion it was agreed to refer the issue to the Planning Committee for its attention. It was suggested that a draft resolution should emanate from the Planning Committee on this issue.

6.3.3 It was suggested that an investigation should be launched immediately into the issue with the participation of the Negotiating Council.

6.3.4 The SA Government distributed a statement on the issue (see Addendum C).

7. Closure

The meeting adjourned at 20h35.

These minutes were ratified at the meeting of the Negotiating Council of 23 August 1993 and the amended version signed by the Chairperson of the original meeting on


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CHAIRPERSON

Addendum A

The following delegates and advisers were present at the meeting of the Negotiating Council on Monday 16 August 1993:

PJ Gordhan : Chairperson
L Landers : Assistant Chairperson

Organisation	Delegates	Advisers
ANC	C Ramaphosa M Manzini	
AVU	C Pienaar C Kruger	A Beyers AJJ van Rensburg
Bophuthatswana	R Mangope SG Mothibe	BE Keikelame
Cape Trad. Leaders	M Nonkonyana SN Sigcau	GD Gwadiso
Ciskei	M Webb VT Gquiba	TM Bulube
DP	C Eglin M Finnemore	KM Andrew PG Soal
Dikwankwetla	TJ Mohapi JSS Phatang	K Ngwenya SOM Moji
IFP		
IYP	NJ Mahlangu NS Mtsweni	AP Laka Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	MS Gininda GG Zama
Kwazulu		
Labour Party	PAC Hendrickse	SS Oosthuizen
NIC/TIC	C Saloojee E David	K Mayet
NP	D de Villiers TJ King	L Wessels
NPP	A Rajbansi S Naidoo	P Doorgapersadh MF Adam

● S Trad. Leaders	RH Mopeli	MB Mota
PAC	P de Lille B Alexander	L Makhanda B Desai
Solidarity	DS Rajah	N Singh AS Razak
SACP	S Shilowa L Jacobus	E Pahad
SA Government	RP Meyer LR Brink	CJB Wessels AJ Bosman
Transkei	Z Titus N Jajula	
TVL Trad. Leaders	LM Mokoena MF Mngomezulu	MA Netshimbupfe NE Ngomane
UPF	A Chabalala	J Maake
Venda	SE Moeti	GM Ligege S Makhuvha
XPP	MH Matjokana PT Shiluvana	EE Ngobeni GNK Hetisani

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

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

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

Noting:

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

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Endorses:

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

Resolves:

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

APPENDIX C

M13/3/3/1 (media)

PRESS RELEASE BY MR PIET COLYN, DIRECTOR GENERAL OF HOME AFFAIRS
RELATING TO MEDIA REPORTS RE THE DESTROYING OF IDENTITY DOCUMENTS

FOR IMMEDIATE RELEASE

The Department has noted with shock the articles in certain daily newspapers to the effect that identity documents are being destroyed by fire in order to prevent persons and especially young black persons, from participating in the forthcoming election. The accusations in these articles are utterly without foundation and intentionally aimed at discrediting the exceptional successes of the Department in recent times with the issuing of identity documents.

I wish to point out that the Department's office at Barberton, was burgled during the weekend of 15 February 1993 when approximately 1800 identity documents were stolen. The burglary was at the time reported to the South African Police and the theft is still being investigated under case No MRA92/02/93. Of these documents 514 were found by the Police buried in the veld near Barberton. The latter documents are in the possession of the Department's Regional Representative, Nelspruit where they can be viewed. They are however damaged to such an extent that they cannot be presented to the applicants concerned.

The regional Representative, Nelspruit, under whose jurisdiction Barberton falls, was authorised at the time to replace the documents of the inconvenienced applicants free of charge.

Lists containing particulars of all stolen documents, were prepared by the Barberton office and those applicants who subsequently reapplied, were entered on the particular lists. The lists also contain indications of those applicants who in the meantime have received their new identity documents. These lists are available for scrutiny.

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The personal particulars which appeared in a newspaper, have been checked against the lists of the Department and quite a number of those cases have already been traced. There is therefore no doubt that the documents stolen are those which have now been incinerated by someone other than the Department.

Arrangements are that Identity Documents are retained by offices for a period of one year and if they are not collected during that period, they are returned to Head Office where they are filed for a further year pending enquiries from applicants. The fact that those documents are filed at Head Office, is entered on computer and officials utilize this facility on a daily basis. After the second period of twelve months, the documents are effectively destroyed if not claimed.

The allegation that among those documents referred to were some that had been issued more than two years ago and others a month ago, is therefore questionable. Should the allegation be true, it can be concluded that these particular documents were stolen from individual persons.

The Department's office at Barberton, as are all other offices, has authority to destroy certain parts of Identity Documents as prescribed, for example where documents are reissued in order to include a driver's licence or where a woman got married. As soon as an identity document is reissued, the original document is withdrawn and page one thereof on which the name and photograph appear, is removed and shredded. The rest of the document has thereafter no value and is incinerated personally by the head of the office or the immigration officer. Nothing remains of the old document and therefore cannot be compared with the case in question where personal particulars could still be identified.

The Department at all times endeavours to issue identity documents to all South African citizens who qualify, before the forthcoming election and the public is invited to apply for such documents as early as possible. Those persons who have applied but have not yet received their documents, are cordially invited to write to the Department at Private Bag X200, Pretoria once three months have

elapsed. The Department is proud to maintain that it is still able to process identity documents within four to eight weeks after application was made. When enquiries have to be made applications may for logical reasons take longer to be completed.

It is regrettable that an article of this nature was published without any effort to check the facts with the Department.

MEDIA ENQUIRIES: CHARLES THERON

TEL: (012) 331-2340

DATE: 1993-08-16