

**TRANSITIONAL
COUNCIL (TEC)**

EXECUTIVE

FOR FORUM
1/7/1993

TECHNICAL COMMITTEE ON THE TRANSITIONAL EXECUTIVE COUNCIL

Number of reports tabled: 6

First report discussed in the Negotiation Council: 18 May 1993

(refer to list of submissions - see Index)

Discussion of further reports by the Negotiating Council has been postponed since the first discussion: refer to the extracts from the minutes attached.

Issues relating to other Technical Committees:

1. The Technical Committee on Violence has referred the issue of armed formations to the TEC
2. Both the TEC and the IEC Technical Committees need to consider the issue of electoral jurisdiction during the transitional period.
3. The TEC has considered the adjudicatory function of the IEC (Section 5 of the first report) and has noted that a final recommendation will only be possible after consideration of the report and recommendations of the IEC Technical Committee.

NOTE: RESOLUTION TABLED 1/7/1993 > ADOPTED WITHOUT AMENDMENT.

VERBATIM TRANSCRIPT OF THE COMMENTS, RELATING TO THE TEC, FROM THE FLOOR OF THE NEGOTIATIONS COUNCIL OF THE MEETING HELD ON 18 MAY 1993.

MR WEBB Mr Chairman, I am in somewhat of a quandry this afternoon. I would like to compliment the technical committee for the work that they have done in respect of the TEC. But my quandry is in regard to the policy of my principal.

It is our belief that there is no need for a TEC. Now I can either motivate that or I can just vote against it at the end of the day. The reason, if I may just proceed for a short time, Mr Chairman, is that it is our belief that if a constitutional dispensation is based on a federal / regional / state / province / whatever you want to call it, but certainly a dispensation that goes to the grassroots of the people, then that will not necessitate the implementation of a TEC.

People at the grassroots will be able to write reasonable constitutions and decide on the devolution of the powers from that level upwards. The regions / states / provinces will approve their own constitution and either by referenda or by having a similar meeting such as this at regional level. As all regions complete this process assymmetrically it will be possible then for the technical committee on Constitutional Issues to prepare a national constitution which will recognise the regional preferences and the various delegations of powers from each region to the centre.

It is submitted with respect that the national constitution would then be submitted to this Council for approval and then hooray, hooray we could announce federal and national elections in terms of that constitution.

It is therefore our sincere submission to the technical committee of the TEC would not be necessary if we are able to be successful in persuading the way of regional devolution in the future. Thank you.

CHAIRMAN Thank you, Mr Alexander.

MR ALEXANDER

Thank you very much, Mr Chairman. We have heard what the members of the technical committee said on the question of a TEC, a number of different positions were obviously put to this technical committee. The people like the PAC which would say that you would need a body, certainly to prepare the country for those elections. But stronger than this TEC you are referring to. An authority, other organisations which will say, no, you need a TEC. Yet others who would say that you don't need either of those two. You just draft a constitution here and that's the end, what interim are you talking about.

So you would have those three types of problematic situations. What we need maybe to discuss here rather

than have a free-for-all, some will say down with the TEC and others viva the TEC, is rather for us to try and find a way of how to handle the three types of perspectives that will obviously be put before us.

I think that if we spend our energy in that direction we will probably make more progress than fighting this issue. My own initial reaction, Mr Chairman, would be that we allow the technical committee as they say on occasion to receive all the different inputs from the different views. Let them receive it, let them look into it, let them look at a way in which we can address it, where we can zero in on certain issues and let them put all those different positions in one document and suggest to us how we can help.

If they feel that these things are too divergent, then maybe they should show the positions clearly and show why it is too divergent for them to make a clear recommendation then let them submit that to the Planning Committee, that which plans in any case for the Negotiating Council on how to address these issues and let that Planning Committee come up with a recommendation. How to deal with these different views when it is presented before us.

I think that this could be one of the ways in which we could deal with this issue. I must just say, Mr Chairman, that the view of the PAC is that we certainly have a problem with the whole idea of a TEC. We would like to see a much stronger, but we do not have a problem with the idea of a body that must be established to take care of those concerns. As some of the people who support the TEC says, we would certainly like to see a fully fledged authority established to take control of certain defined areas and we would need to debate some of these issues. But, unfortunately we don't have all these things written down in a neat way to give us a direction on how to handle our differences.

I am saying that if we can allow the technical committee to have another bite at the whole thing maybe we will come up with a suggestion as how to deal with it.

CHAIRMAN Thank you very much Mr Alexander. We will now have Mr Gordon, followed by Mr Rajbansi, Mr Matiba and Mr Meyer.

MR GORDON Mr Chairperson, I want to follow Mr Alexander's path and suggest that there is really no point at this stage in debating the merits of the acceptability of the TEC or not. It really isn't the issue before us and I am wondering if you wouldn't accept a motion that the technical committee be asked to continue drafting their next report to us and any draft legislation that they have in mind. On the understanding that having given them that mandate, the Negotiating Council is not taking a position on the acceptability or otherwise of the TEC, which is a subject that we will discuss once we have the transition / negotiation process

and the scenarios before us for discussion. Which would be the most appropriate time for us to actually apply our minds as to whether a TEC is actually needed or not and in what form.

I duly move Mr Chairperson, with your permission, that the technical committee be asked to pursue its work and that really at this stage, there is no merit in putting forward arguments for or against the TEC. That really isn't the subject for discussion.

CHAIRMAN There is a definite motion, now, that has been placed before the house, is there a supporter for this motion. There are supporters of this motion, any counter to this motion.

MR DE JAGER I have no counter, but

CHAIRMAN Can I put it, the thing is I want to know if there is a counter and I'll give you a chance to comment, if you just want to comment outside the motion.

The motion is before us now. Its been seconded, is there a counter. What I want to know is there opposition to this or an amendment, then the motion is carried.

MR DE JAGER Mr Chairman, with respect.

CHAIRMAN Well look, I want to know, a motion has come up, its been seconded, is there a counter, No, is there an amendment, NO. Then the motion stands and it's accepted as a resolution. Thereafter we can have comments. Is that acceptable. Right, agreed, the motion is accepted. Comments now will come from Mr Rajbansi, Mr Matiba, Mr Meyer, Mr De Jager and I can take any more that would like to come in. Mr Rajbansi.

MR RAJBANSI Mr Chairman, in accordance with the decision that has just been taken, the technical committee will deal with its task. During the interim period, which is a run up to the elections. There was emerging consensus in the Working Group 3 of Codesa.

One was that there should be joint control of the security establishment, in particular. Secondly, that there should be independent control of institutions, like the electronic media, electoral process etc. The third important part that appears to be missing in this report of the technical committee, is the question of the levelling of the playing fields and also as we had discussed at Codesa, that the sub-council of the TEC can deal with issue in its opinion that may have had a negative impact on the levelling of the playing field

But there are a few important issues that I want to suggest, that the technical committee deal with and others, as Mr Benny Alexander has clarified. My party will request to appear orally / personally before the committee. One is that, what is the status of this TEC, will it be like a provincial executive level or will it have the status of the Own Affairs Ministers Council in relation to the supreme executive authority in this country. What was discussed at the Working Group of Codesa is the TEC will have cabinet status in all respects. That was the suggestion, very strong suggestion, that it will have cabinet status in all its respects and this can be proved because there was discussion and there was concern, whether this body comprising participants

will be a further input to them. Further discussions and bring back again to us in the NC. So I want to just make it clear that this is not the be all and end all here. We have asked the technical committee to go and pursue the matter. They will come with a report and we shall have further debate on it.

MR MATIBA Mr Chairman in the light of the proposal by Mr Gordan, I don't need to comment any further.

CHAIRMAN Thank you very much and Mr Meyer any further comments. Miss Molize

MISS MOLIZE The PAC would like to move that the technical committee looks at the question of the TEC's Transitional authority. In view of the fact that the Transitional Authority should have powers that are more than those accorded to the TEC.

CHAIRMAN Are we introducing a new factor? There has been a motion now which has been moved, accepted and adopted that the technical committee pursue its work looking into all aspects of it. That submissions are open to be given and I have just stressed that and if there is any further submissions from the PAC, wonderful, it will go in. Such a submission from Miss Molize will be most welcome. Thank you. Mr De Jager.

MR DE JAGER We agree that there should be transitional arrangements, but we say that they should be implemented as soon as a new constitution or constitutions have been adopted. Then transitional agreements to lead on could be implemented on a regional and a national basis. We know where we stand today, there should be a transition from position A to position B. We know what position A is but we don't know as yet what position B will be. How can we plan a transition to an as yet undefined new position and that is our query.

CHAIRMAN Thank you very much. There being no further comments from the technical committee to take note of other than what has transpired, we would like to take this opportunity to formally thank the technical committee for its wonderful work and to give it over the information that came out of this council and that we look forward to a report back from the technical committee. Thank you.