

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 09h05 ON FRIDAY 22 OCTOBER 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

2.1 The participants were welcomed.

2.2 It was noted that the AVU objected to L Landers as the Chairperson of the day. The Chairperson noted that the AVU was out of order.

3. Ratification of the Agenda

The agenda was ratified with no amendments.

4. Minutes

It was noted that the minutes of 13 September 1993 would be distributed during the course of the day for ratification at the next meeting of the Negotiating Council.

5. Proposed Resolution on the S.A.D.F. Raid into Transkei:

It was noted that although the PAC, the South African Government and the Transkei Government had agreed upon a draft resolution, the PAC, after consultation with its principal, noted that it no longer supported the proposed draft resolution. It was agreed to refer the issue back to the Planning Committee to be dealt with at its next meeting. The issue could also be dealt with on the level of bilateral meetings.

Substantive Issues - Second version of the Draft Electoral Bill

- 6.1 The Technical Committee was welcomed. Present were J Bruwer (state law adviser), D Davis, SK Ndlovu, RB Rosenthal and F Ginwala. Apologies were noted from HR Laubscher. The meeting proceeded to continue its discussion and debate on the second version of the Draft Electoral Bill.
- 6.2 It was noted that technical issues should be referred to the Technical Committee for its attention and political issues should be referred to the Ad-Hoc Committee for its attention.
- 6.3 Clause 31 "Commencement and closing of vote at voting stations" refers:
- * It was suggested that all persons who had presented themselves to vote should be allowed to do so. It was agreed that the Technical Committee should redraft this clause taking into account the debate and the concerns raised in the Negotiating Council.
- 6.4 Clause 32 "Place of voting" refers:
- * It was agreed to refer this clause to the Ad-Hoc Committee for its attention.
- 6.5 Clause 33 "Number of votes per voter" refers:
- * It was agreed to refer this clause to the Ad-Hoc Committee for its attention.
- 6.6 Clause 34 "Voting to be in secret" refers:
- * It was noted that the Technical Committee would give consideration to concerns and questions raised during the discussion with regard to the use of the word "interfere" in this clause.
- 6.7 Clause 35 "Identification" refers:
- * It was agreed to refer this clause to the Ad-Hoc Committee for its attention.
- 6.8 Clause 36 "Manner of Voting" refers:
- * Discussion proceeded around this clause. It was noted that the issue of voter eligibility related to the crux of the electoral process and that a political decision needed to be taken in this regard. A further point requiring a political decision was the question of who would issue Identity Documents for the purposes of the up-coming election, e.g. should it be the Department of Home Affairs or the IEC. It was

further noted that no participant had expressed opposition to the indelible mark on the hand as contained in clause 36 (4) (a). The question arose as to whether a stamp or a mark should be placed on the voter's identity document or card. The question also arose as to whether one or more documents should be used. It was, therefore, agreed to refer the issue of voter eligibility and who will produce the documents for purposes of the election to the Ad-Hoc Committee for its attention. The Ad-Hoc Committee should also consider the optimum method of trying to ensure that people who are entitled to vote do vote and to make sure that those who are entitled to vote only vote once. Furthermore, the issue of the possible notification of Identity Documents was referred to the Ad-Hoc Committee. It was agreed that the Ad-Hoc Committee should liaise with the Technical Committee in this regard.

- * It was suggested that the issue of people objecting on religious grounds to being marked should be examined by the Ad-Hoc Committee.
- * No comments were noted on clause 36 (1).
- * No comments were noted on clause 36 (2) (a).
- * No comments were noted on clause 36 (2) (b).
- * No comments were noted on clause 36 (2) (c).
- * With regard to clause 36 (3) (a), it was noted that the Technical Committee had requested the CSIR to give the Technical Committee advice on the question of ink and sensors and issues related thereto. A preliminary report had been received by the Technical Committee and would be circulated to participants. The Technical Committee highlighted various paragraphs of the report, noting that the CSIR had consulted with the Department of Home Affairs on the issues concerned. Lengthy discussion proceeded around the issue of tenders, the sensors and the consultation with the Department of Home Affairs.
- * After discussion it was agreed that an interim multi-party committee should be established to investigate all issues that the IEC will have to take decisions on and prepare the relevant documentation to assist the IEC to make informed decisions. It was further agreed that the issue be referred to the Planning Committee for a recommendation on the composition of this interim multi-party committee. It was noted that the Planning Committee should urgently set up this committee, if possible before the end of the week commencing 25 October 1993.
- * It was noted that P Molefe and D Schutte would submit recommendations with regard to the mandate of the proposed

committee to the Planning Committee. The Planning Committee would submit a recommendation in this regard for the approval of the Negotiating Council.

- * It was noted that D Schutte, on behalf of the Department of Home Affairs pledged co-operation to the proposed interim multi-party committee. Furthermore, the Department of Home Affairs was requested not to proceed with or undertake any initiatives unilaterally with regard to the preparations for the elections which could pre-empt the work of the IEC. It was further noted that the Department of Home Affairs would give a full report to the Negotiating Council on what had been undertaken by the Department with regard to the upcoming elections.
- * During the course of the debate it was noted that the Planning Committee was not establishing any of the transition structures, but was looking into the preparation of the groundwork and considering all the necessary arrangements relative to the establishment of the transition structures. The said structures would, however, only be implemented once a Plenary session of the Multi-Party Negotiating Process had been held as per the resolutions adopted by the Negotiating Council on 2 September and 7 September respectively. It was noted that the Planning Committee would submit a report on the issue of the transition structures to the Negotiating Council during the course of the week commencing 25 October 1993. It was suggested that if the Negotiating Council wished to revisit the decision contained in the resolutions of 2 September 1993 and 7 September 1993, it could do so.

The Council adjourned for tea at 11h00.

The meeting reconvened at 11h30.

- * With regard to clause 36 (3) (b), it was suggested that the Technical Committee should reconsider wording of this clause and the following wording was suggested "... examine the voter for purposes of paragraph (a)". The Technical Committee noted that it would reconsider the wording of the clause.
- * No comments were noted on clause 36 (3) (c).
- * No comments were noted on clause 36 (4).
- * No comments were noted on clause 36 (4) (a).

- * With regard to clause 36 (4) (b), it was suggested that the ink should be used under the fingernail.
- * With regard to clause 36 (4) (b), it was suggested that it should be ensured that this clause should cater for the needs of people who had religious objections to being marked.
- * With regard to clause 36 (4) (b), it was suggested that there should be standardisation between polling stations and the IEC, or that the chief electoral office should prescribe in this regard.
- * It was noted that the Technical Committee would reconsider clause 36 (5) in the light of the debate in the Negotiating Council and the various suggestions raised during the course of the discussion.
- * No comments were noted on clause 36 (6) (a).
- * No comments were noted on clause 36 (6) (b).
- * No comments were noted on clause 36 (7) (a).
- * With regard to clause 36 (7) (b), it was suggested that it should be made clearer that the preferable way to vote was with a cross, but that any mark was acceptable as long as it was clear what the intention of the voter was.
- * With regard to clause 36 (7) (b), it was suggested that the clause should be reformulated along the following line "She or he shall indicate the party for which she or he desires to vote by placing a cross opposite or against the name of that particular party, provided that any other mark that clearly denotes the choice for a particular party shall be considered a valid vote".
- * With regard to clause 36 (7) (b), it was suggested that the wording in the existing Electoral Act dealing with this issue should be used in this Draft Electoral Bill. The Technical Committee stated that it would reconsider this clause taking into account the debate in the Council.
- * No comments were noted on clause 36 (7) (c).
- * No comments were noted on clause 36 (7) (d).
- * No comments were noted on clause 36 (8).
- * No comments were noted on clause 36 (8) (a).
- * No comments were noted on clause 36 (8) (b).

- * Two examples of ballot papers were distributed to participants (see Addendum B and Addendum C). The Technical Committee gave an input to the meeting on the two examples. No discussion and debate followed.

6.9 Clause 37 "Voters who cannot read or who are incapacitated by blindness or other physical disability from voting" refers:

- * It was suggested that the election agent should be able to request assistance with voting on behalf of voters who cannot express themselves due to a physical disability or illiteracy.
- * With regard to clause 37 (1), it was suggested that the person chosen by the voter should herself/himself be an eligible voter.
- * It was noted that the Technical Committee would reformulate clause 37 (1) and (2) to make the intention of the clauses clearer.
- * It was suggested that the voter should be able to make the decision with regard to the person to assist with the casting of her/his vote. The discretion in this regard should not be left to the presiding officer or any other individual.
- * It was suggested that it should be clearly stated how many people one person could assist in the casting of their votes.
- * It was suggested that the presiding officer should, if she/he cannot find the election agents or they are not available, have the discretion to make use of an alternative.
- * No comments were noted on clause 37 (3) (a).
- * No comments were noted on clause 37 (3) (b).
- * No comments were noted on clause 37 (4).

6.10 Clause 38 "Objection to voting" refers:

- * No comments were noted on clause 38 (1).
- * With regard to clause 38 (1) (a), it was noted that the words "acceptable identity document" should read "acceptable voter's eligibility document". It was further noted that the same point was applicable to clause 39 (1) (a).
- * No comments were noted on clause 38 (1) (b).

- * With regard to clause 38 (1) (c), it was suggested that a procedure for objection was necessary if an election or voting agent believed that a person who was presenting herself/himself to vote was not entitled to vote.
- * No comments were noted on clause 38 (2).

6.11 Clause 39 "Tendered ballot papers" refers:

- * It was agreed to refer this section to the Ad-Hoc Committee for its attention. Furthermore, the entire concept of tendered ballot papers was referred to the Ad-Hoc Committee. The Ad-Hoc Committee should, therefore, consider all other clauses and sub-clauses pertaining to tendered ballot papers.

6.12 Clause 40 "Sealing of ballot boxes and other election material by presiding officer" refers:

- * No comments were noted on clause 40 (1).
- * No comments were noted on clause 40 (1) (a).
- * No comments were noted on clause 40 (1) (b).
- * With regard to clause 40 (1) (c), it was noted that this clause referred to tendered ballot papers and would be dealt with by the Ad-Hoc Committee.
- * With regard to clause 40 (1) (d), it was suggested that the number of reissued ballot papers should be recorded as a separate category.
- * With regard to clause 40 (1) (d), it was suggested that different terminology should be used to distinguish between spoilt ballot papers from the sealed ballot box and spoilt ballot papers with which voters come back to the officer with, requesting replacements. The Technical Committee was requested to make the necessary revision taking into account the debate in the Council.
- * No comments were noted on clause 40 (1) (e).
- * With regard to clause 40 (2) (a), clause 40 (2) (b) and clause 40 (2) (c), it was noted that these clauses contained references to tendered ballot papers and would be dealt with by the Ad-Hoc Committee, if necessary.
- * With regard to clause 40 (3), it was suggested that provision should be made for other seals, such as for the voting agent. It was noted that

the Technical Committee would reformulate this clause.

- * With regard to clause 40 (4), it was noted that this clause referred to tendered ballot papers and would be dealt with by the Ad-Hoc Committee.
- * With regard to clause 40 (5), it was noted that the Technical Committee would give consideration to the question raised as to what kind of suggestions would be put forward with regard to the safe-keeping of all the packets referred to in this clause.

6.13 Clause 41 "Special voters" refers:

- * With regard to clause 41 (1), it was suggested that the concept of advanced age should not be considered as a category in its own right unless the person was suffering from illness, physical infirmity or physical disability. Furthermore, the word "advanced" should be inserted before the word "pregnancy". Other participants did not agree with this view.
- * It was suggested that the category of special voters should be broadened to encompass the category of voter who wanted her/his vote counted in a region that was different from where the vote was cast.
- * It was suggested that the number of special votes should be limited. Furthermore, the bringing out of special votes should be restricted to one day.
- * With regard to clause 41 (2), it was suggested that special votes should be restricted to the place of office, old age homes and hospitals.
- * With regard to clause 41 (2), it was suggested that it contained a contradiction in terms compared to clause 41 (1).
- * It was suggested that pending physical infirmity should be provided for in clause 41.
- * It was suggested that there should be provision in clause 41 enabling a political party to object to an application for a special vote.
- * It was suggested that the Council should determine the categories of special voters.
- * It was suggested that criteria and a framework should be established to make it possible for every voter to cast her/his votes, specifically in terms of special votes. The Technical Committee should reconsider this clause and the whole issue of special voters, taking into account

the debate in the Council.

6.14 Clause 42 "Procedure of voting by special voters" refers:

- * With regard to clause 42 (1), it was suggested that the Technical Committee should consider that an application for a special vote should be made on a prescribed form which should be simple. Furthermore, the signature of the applicant should be confirmed in the form of an affidavit. It was also suggested that provision should be made for those who could not read or write.
- * With regard to clause 42 (2), it was suggested that the second part of the clause after the words "Chief Director" should read "examine the voter's eligibility document in order to satisfy".
- * With regard to clause 42 (3), it was suggested that word "right" should be deleted and the word "hand" should read "hands".
- * No comments were noted on clause 42 (4).
- * No comments were noted on clause 42 (4) (a).
- * No comments were noted on clause 42 (4) (b).
- * No comments were noted on clause 42 (4) (c).
- * With regard to clause 42 (5) (a), it was suggested that this clause should be reconsidered, taking into account the views expressed in the debate.
- * No comments were noted on clause 42 (5) (b).
- * No comments were noted on clause 42 (5) (c).
- * No comments were noted on clause 42 (5) (d).
- * No comments were noted on clause 42 (5) (e).
- * With regard to clause 42 (6), concerns were expressed with regard to safe custody. It was noted that the Technical Committee would provide throughout the Act for adequate provisions with regard to safe custody.
- * It was suggested that it was necessary to have a cross reference to clause 37 in this clause.

- 6.15 Clause 43 "Notice of place and time of counting of votes" refers:
- * No comments were noted on this clause.
- 6.16 Clause 44 "Verification of ballot paper count by counting officer" refers:
- * No comments were noted on clause 44 (1).
 - * With regard to clause 44 (2), it was suggested that provision should be made that the locality of the printing of the ballot papers should be confidential.
 - * No comments were noted on clause 44 (3).
- 6.17 Clause 45 "Counting of votes" refers:
- * No comments were noted on clause 45 (1) (a) and clause 45 (1) (b).
 - * With regard to clause 45 (2), it was suggested that the provisional results of the count at each polling station should be made public immediately, subject to certification by the IEC. It was noted that the Technical Committee would consider this suggestion.
 - * No comments were noted on clause 45 (3).
 - * With regard to clause 45 (4), it was suggested that the votes should be counted electronically. The Technical Committee was requested to investigate this suggestion.
 - * No comments were noted on clause 45 (5).
 - * No comments were noted on clause 45 (6).
 - * No comments were noted on clauses 45 (7) (a), (b), (c), (d), (e), (f) and (g).
 - * No comments were noted on clause 45 (8).
- 6.18 Clause 46 "Alleged irregularities or inaccuracies, and challenges of tally" refers:
- * With regard to clause 46 (1), it was suggested that the objections in respect of the counting officer's activities should be lodged before the tally is agreed and the party agents should be required to sign an agreement with the tally. The Technical Committee took note of the point.

- * No comments were noted on clause 46 (2).
- * No comments were noted on clause 46 (3).
- * No comments were noted on clause 46 (4).
- * No comments were noted on clause 46 (5).

6.19 Clause 47 "Determination of materiality of tendered ballot papers" refers:

- * It was agreed to defer discussion on this clause, as the whole concept of tendered ballot papers had been referred to the Ad-Hoc Committee for its attention.

6.20 Clause 48 "Verification of material tendered ballot papers" refers:

- * It was agreed to defer discussion on this clause, as the whole concept of tendered ballot papers had been referred to the Ad-Hoc Committee for its attention.

6.21 Clause 49 "Counting of tendered ballot papers" refers:

- * It was agreed to defer discussion on this clause, as the whole concept of tendered ballot papers had been referred to the Ad-Hoc Committee for its attention.

6.22 Due to time constraints, it was agreed to not proceed any further with the Draft Electoral Bill. The Technical Committee was thanked for its work so far completed.

7. Meetings Schedule and Draft Programme

It was noted that a meetings schedule and draft programme were not distributed, as the meetings schedule and draft programme, distributed in the Negotiating Council meeting of 21 October 1993 were still applicable.

8. Closure

- 8.1 A request was made to all participants to observe punctuality with regard to the starting time of meetings.
- 8.2 The meeting adjourned at 14h00.

These minutes were ratified at the meeting of the Negotiating Council of 4 November 1993 and the amended version signed by the Chairperson of the original meeting on 10/11/1993

Janders.

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CHAIRPERSON


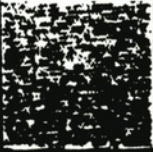




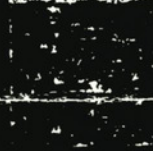





The following delegates and advisers were present at the meeting of the Negotiating Council on Friday 22 October 1993:

L Landers : Chairperson
 B Kgositsile : Assistant Chairperson

Organisation	Delegates	Advisers
ANC	P Molefe M Nokonyane	
AVU	S Burger C Kruger	AJ Horn
Bophuthatswana		
Cape Trad. Leaders	SM Burns-Noamashe	
Ciskei		
DP	KM Andrew D Smuts	E Trent
Dikwankwetla	MC Noge	
IFP		
IYP	AP Laka	Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	KK Mahlaba GG Zama
Kwazulu		
Labour Party	MJW Nduogle	F Richards
NIC/TIC	C Saloojee	B Pillay
NP	OAW van Zyl TJ King	
NPP	A Rajbansi T Gunpath	H Pithambar N Rajaram
OFS Trad. Leaders	MA Molefe	RS Rajuili
PAC	P de Lille	B Desai

Solidarity	DS Rajah	K Moodley
SACP	E Pahad L Jacobus	
SA Government	DPA Schutte LR Brink	A Tredoux NN du Plessis
Transkei	Z Titus N Jajula	R Nogumla
TVL Trad. Leaders	LM Mokoena MA Netshimbupfe	MF Ngomezulu
UPF	A Chabalala MJ Mahlangu	J Maake RJ Dombo
Venda	NE Mulaudzi	S Makhuvha
XPP	GNK Hetisani	MH Matjokana PT Shilubana

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

AFRIKAANSE PARTY	AFP		
EENHEIDSPARTY/UNITY PARTY			
EOUAL PARTY	EP		
FUTURE PARTY/ MOKGATLHO WA KAMOSO			
MOKGATLHO WA LENANEO			
MOKGATLHO WA MATLHAGATLHAGA/ ACTIVE PARTY			
MOKGATLHO WA TOKOLOGO/ LIBERALE PARTY	LP		
NEW SOUTH AFRICAN PARTY/ NUWE SUID-AFRIKAANSE PARTY	NSAP		

Vote for one party only


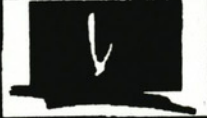






Record your vote by a X in the square opposite the party for whom you wish to vote

Stem slegs vir een party

Stem daer 'n X te maak in die vierkant teenoor die party vir wie u wil stem

BALLOT PAPER

(Make a cross next to the party of your choice) : Vote for **ONE** party only

AFRICAN NATIONAL CONGRESS	ANC			
AFRIKANER-VOLKSUNIE	AVU			
AZANIAN PEOPLE'S ORGANISATION	AZAPO			
CONSERVATIVE PARTY	CP			
DEMOCRATIC PARTY	DP			
INKATHA FREEDOM PARTY	IFP			
NATIONAL PARTY	NP			
PAN AFRICANIST CONGRESS	PAC			

*This is a sample and not an official ballot paper. Some of the above political parties / organisations may choose not to enter the elections.

Designed and Produced by The Centre for Development Studies at UWC / Veetu
esquire press

Roobrown C