

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

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 09H30 ON MONDAY 6 SEPTEMBER 1993 THROUGH TO TUESDAY 7 SEPTEMBER 1993 AT THE WORLD TRADE CENTRE**

PRESENT : B Alexander  
R Cronje  
C Eglin (Chairperson by rotation)  
PJ Gordhan  
C Kruger  
RP Meyer  
MC Ramaphosa  
J Slovo  
Z Titus  
M Webb

M Maharaj (Sub-Committee)  
SS van der Merwe (Sub-Committee)

T Eloff (Administration)  
G Hutchings (Minutes)

**1. Moment of Prayer/Meditation**

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

**2. Welcome and Attendance**

2.1 All members were welcomed.

2.2 Absent from the meeting were FT Mdlalose and B Ngubane (sub-committee).

2.3 Apologies were noted for non-attendance by S Sigcau.

**3. Ratification of Agenda**

The agenda was ratified with no amendments.

## 4 Minutes

### 4.1 Ratification of Minutes:

4.1.1 The minutes of the meetings of 9 August through to 12 August 1993 were ratified with the following amendments:

- \* Item 5.1.4.3, the second asterisk should read : "It was agreed that the Goldstone Commission should be thanked for its co-operation in submitting the Report of the technical experts on violence in the run up to the elections directly to the Multi-Party Negotiating Process."
- \* Item 14.1, the first asterisk refers : "Elgin" should read "Eglin".

4.1.2 The minutes of the meeting of 16 August 1993 were ratified with no amendments.

4.1.3 The minutes of the meeting of 17 August 1993 were ratified with the following amendments:

- \* Item 4.3, the second asterisk refers : "Dhlamini" should read "Dlamini".
- \* Item 8.2, the end of the second sentence refers : The word "is" should be deleted and the word "Committee" should read "Committee's".

4.1.4 The minutes of the meeting of 19 August 1993 were ratified with the following amendments:

- \* Item 5.2.2, the first asterisk refers : The word "where" should be deleted and replaced with "areas in respect of which".
- \* Item 5.2.2, the second asterisk should read : "To identify areas where members of the international community were already involved in South Africa, how long they have been in the country, on what basis they are represented, what they have actually been doing, etc. (e.g. in the National Peace Secretariat)."
- \* Item 5.9.1 refers : The word "Hoc" should be inserted between the words "Ad" and "Committee".
- \* Item 5.13 refers : The following sentence should be inserted after the first sentence of the paragraph "C Eglin also submitted



a written report (see Addendum C)."

- \* Item 5.15.1 refers : The word "and" should be deleted and replaced with "on".

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

4.2.1 No matters arising were noted out of the minutes of the meetings of 9 August through to 12 August 1993.

4.2.2 No matters arising were noted out of the minutes of the meeting of 16 August 1993.

4.2.3 No matters arising were noted out of the minutes of the meeting of 17 August 1993

4.2.4 No matters arising were noted out of the minutes of the meeting of 19 August 1993.

4.3 It was noted that further minutes would be distributed during the course of the day for ratification at a future meeting of the Planning Committee.

### 5. Substantive Issues

#### 5.1 Constitutional Issues:

5.1.1 Progress report on the bilaterals and/or multilaterals dealing with the following issues:

- \* Citizenship laws and SPR Citizenship:

No points were noted.

- \* Competencies of SPR's:

It was noted that the South African Government would make a submission on this issue to the Planning Committee.

- \* SPR taxes:

It was noted the South African Government had already made a submission to the Planning Committee on this issue for its consideration. It was agreed that an expert on this issue, from the South African Government, presents the submission to the Planning Committee. This should occur during the course of the week.

- \* The continuation, transfer and consolidation of existing administrative responsibility:

It was noted that the South African Government was still in the process of evaluating the position with regard to this issue and would be in a position by early next week to make a proposal on this issue to the Planning Committee.

It was suggested that a more detailed report was needed with regard to these issues on an administrative level. It was further suggested that a group of people or an ad-hoc committee should be formed to work with the South African Government to draft the suggested report and to lay out a framework of what it would mean in real terms to transfer, consolidate, the administration into the different regions etc. This would facilitate the implementation of decisions with regard to regions.

It was noted that R Meyer would attempt to get the initial evaluation to the Planning Committee during the course of the week. It was suggested that the document be immediately referred to the Sub-Committee to submit a recommendation to the Planning Committee on the way forward.

After discussion it was agreed that the report would first come to the Planning Committee and a decision would then be taken.

- \* The manner of establishing, structure, and the content of SPR Constitutions:

It was suggested that a bilateral and/or multilateral should be formally established on this issue.

It was further suggested that the issue of Confederalism should be dealt with before the issue SPR Constitutions could be addressed effectively.

The issue of when the SPR Constitutions should be drafted and who should draft it should also be dealt with.

It was suggested that this issue should be left in abeyance until there was greater clarity on the competencies of SPR's.

It was agreed to defer discussion on these issues as more thought was needed on this and the related issues. A total package was needed to resolve the issues. It was further



agreed that the bilaterals and/or multilaterals should be given priority attention to resolve the issues.

\* After a lengthy debate, it was agreed to defer discussion on the following issues until a future meeting of the Planning Committee:

- The name for SPR's
- Definition of the National Territory
- Languages
- Whether the Constitutional Assembly will have the power to alter the number, boundaries and powers of SPR's described in the Constitution for the transitional period
- The issue of the TBVC States
- Submission by the National Electrification Forum
- The fleshing out of the adopted Constitutional Principles
- The Constitutional Court - its composition and functioning
- The deadlock-breaking mechanisms
- The issue of boundaries
- Self Determination
- Confederalism
- Traditional Leaders

5.1.2 Report from R Meyer on K Coetsee's meeting with the Chief Justice:

5.1.2.1 An oral report was presented to the meeting.

5.1.2.2 It was noted that a submission had been received by the Administration from the Chief Justice and this had been forwarded to the Technical Committee on Constitutional Issues.

5.1.3 Meeting with the General Council of the Bar:

5.1.3.1 Z Titus gave a reportback on the meeting held with W Trengove (Chairperson of the General Council of the Bar).

5.1.3.2 It was agreed that, with regard to W Trengove's request/suggestion that he co-ordinates the views of the Advocates, the Association of Law Societies, NADEL and the Black Lawyers' Association, Z Titus conveys the view of the meeting to W Trengove.

5.1.3.3 It was agreed that the Administration should make available the 12th Report of the Technical Committee on Constitutional Issues to W Trengove. It was noted that W Trengove was prepared to make written submissions to the Technical Committee on the 12th Report. It should be noted that the report was still under embargo. It was further agreed that the Advocates, the Association of Law Societies, NADEL, the Law Commission and the Black Lawyers' Association should receive copies of the 12th Report directly from the Multi-Party Negotiating Process Administration and not via W Trengove's office.

5.1.3.4 It was noted that the Sub-Committee was scheduled to meet with the Technical Committee on Constitutional Issues on this issue.

5.1.4 The procedure/process for the drafting of citizenship legislation - recommendation from Sub-Committee:

It was noted that the Sub-Committee was scheduled to meet with Technical Committee on Constitutional Issues on this issue.

5.1.5 Financial Matters in the run up to the elections (transformation and rationalisation) - Recommendation from the Sub-Committee with regard to the technical input on this issue:

It was agreed to defer discussion on this issue until a future meeting of the Planning Committee.

## 5.2 **Commission on the Demarcation/Delimitation of Regions:**

It was noted that there was nothing to report at this stage on the progress of the work of the Commissioners and the Technical Support Team.

## 5.3 **Planning for the implementation and practical application of the three (four) Bills, including informal preparation for the operation of the structures:**

5.3.1 It was noted that the Sub-Committee would report back on this issue to the Planning Committee after Wednesday 8 September.

5.3.2 It was noted that the document prepared by PJ Gordhan and Z Titus was an overview document with regard to the process (see Planning Committee minutes of 30 August 1993 - Addendum A). It was further noted that the Sub-Committee should draw the attention of the Planning Committee to issues that were not in line with the envisaged



time frames as laid out in the said document.

**5.4 The role of the international community, including definition and present role in other structures:**

It was agreed that this issue be dealt with at a future meeting of the Planning Committee.

**5.5 The processing of the three (four) Draft Bills through Parliament:**

5.5.1 It was noted that the Planning Committee had already received a report from the Sub-Committee in this regard (see Planning Committee Pack of 1 September 1993).

5.5.2 It was agreed to deal with this report once it was clear how the debate on the TEC Draft Bill was proceeding. It was suggested that the report and recommendations could be dealt with on Wednesday 8 September 1993.

5.5.3 Discussion then proceeded on the schedule of meetings and the proposed programme of meetings for the Negotiating Council. It was agreed that the Administration should update the Programme of Meetings taking into account the views expressed in the meeting.

5.5.4 It was agreed to recommend to the Negotiating Council that the Planning Committee be authorised to ensure that any suggested amendments to the Draft Bills did not violate Negotiating Council agreements.

5.5.5 It was further agreed to recommend to the Negotiating Council that a Task Group be appointed to monitor the passage of the Draft Bills through Parliament and to ensure on behalf of the Planning Committee that any suggested amendments to the Draft Bills did not violate Negotiating Council agreements.

5.5.6 It was noted that the Task Group should keep the Planning Committee informed of progress and any problems that may arise with regard to the passage of the Draft Bills through Parliament.

5.5.7 It was agreed to recommend to the Negotiating Council that the Task Group be composed of M Maharaj (Sub-Committee), SS van der Merwe (Sub-Committee), Z Titus, M Webb and T Eloff (Administration).

5.5.8 It was agreed that the Administration should supply the Planning Committee with a copy of the final adopted Bills.



5.6 **Commission on National Symbols:**

- 5.6.1 A report was given by the Sub-Committee to the Planning Committee. A written report containing all the nominees and where possible, curriculum vitae's was distributed at the meeting (further copies available on request).
- 5.6.2 A recommendation on the composition of the Commission was put to the meeting (see Addendum A). It was noted that the work of the Sub-Committee had been hampered by the unavailability of CV's.
- 5.6.3 It was agreed to revisit this issue at the next meeting of the Planning Committee, after members had had an opportunity to study the recommendation and the curriculum vitae's of the proposed members.

5.7 **Fundamental Human Rights during the Transition:**

- 5.7.1 The Sub-Committee gave a progress report on the receipt of inputs from the experts on customary law. It was noted that the Ad-Hoc Committee and Technical Committee met on this issue and were scheduled to meet during the course of the week. A report should be available early next week.
- 5.7.2 The Sub-Committee gave a progress report on the work of the Committee. It was noted that a report should be available early next week.
- 5.7.3 Z Titus gave a report back on the meeting held with the General Council of the Bar with regard to the Technical Committee on Fundamental Human Rights during the Transition.
- 5.7.4 It was agreed that once the Technical Committee had drafted its next report, it should initially be submitted to the Ad-Hoc Committee to ascertain whether there was agreement on the formulations. It was noted that the Sub-Committee would co-ordinate the inter-relationship between the Technical Committee and the Ad-Hoc Committee.

5.8 **Repeal or Amendment of Discriminatory Legislation:**

- 5.8.1 The Sub-Committee submitted a recommendation to the Planning Committee suggesting a proposed Task Group to deal with the identification of discriminatory legislation (see Addendum B).
- 5.8.2 The Sub-Committee gave a presentation to the meeting based on its recommendation.
- 5.8.3 It was suggested that the first report should be available during the



first week of October but that the time frames could only be established once the Planning Committee and the Negotiating Council had agreed on the procedure.

5.8.4 The Planning Committee agreed to the recommendation. It was further agreed that once the Task Group had been established, the Sub-Committee should have discussions with them on their method of working and report back to the Planning Committee on the issue of time frames.

5.8.5 It was agreed that this recommendation would be put before the Negotiating Council at its meeting of 6 September 1993.

**5.9 Violence:**

5.9.1 It was noted that a report from the Communications Committee on what public broadcasters could do with regard to creating an awareness of the negotiating process was awaited. The Administration gave a progress report to the meeting on this issue.

5.9.2 It was noted that the Technical Committee was still working on the issue of the Peace Corps. No further progress was reported on.

**5.10 TEC and its Sub-Councils:**

5.10.1 It was noted that the debate on the Final Draft Bill would commence at the meeting of the Negotiating Council on 6 September 1993.

5.10.2 It was noted that the 16th Working Draft had been distributed to participants before or during the course of the weekend.

5.10.3 It was noted that the Technical Committee had redrafted clause 22 (information) and that this clause would be discussed in the Negotiating Council meeting.

5.10.4 It was noted that, with regard to clause 23 (the decision-making mechanism), bilateral meetings had taken place and the results thereof would be discussed in the meeting of the Negotiating Council.

**5.11 PAC/SA Government Issue**

It was noted that this issue would be dealt with during the course of the week as a matter of urgency.

5.12 **Stolen and Burnt ID Documents**

A letter was distributed to the meeting (see Addendum C). The Sub-Committee stated that it would follow up the issue to obtain a more in-depth and complete report.

5.13 **Traditional Leaders:**

The paper was noted (see Addendum B of the agenda documentation). It was agreed that this issue should be dealt with on a bilateral and/or multilateral basis and addressed in the holistic package as referred to under Item 5.1.1.

6. **Procedural issues**

6.1 **Women and the TEC:**

It was agreed that the Planning Committee would submit the following recommendation to the Negotiating Council:

\* To insert a new subsection 24 (7):

"The Subcouncil on the Status of Women from time to time shall nominate three persons, from amongst its members who shall be entitled to attend all meetings of the Council and to address it on any matters relevant to the Status of Women."

6.2 **Implementation of decision on Liaison Committees:**

6.2.1 It was noted that the Administration was still awaiting a date from the National Economic Forum with regard to a meeting of the liaison committee.

6.2.2 It was noted that the Administration was still awaiting a date from the Local Government Negotiation Forum with regard to a meeting of the liaison committee.

6.3 **Report from the Ad-Hoc Committee with regard to the legal action by the Kwazulu Government:**

6.3.1 Z Titus gave a reportback to the meeting on this issue.

6.3.2 It was noted that the case is set for hearing on 9 September 1993.

6.3.3 It was agreed that Z Titus and M Webb should attend the hearing on behalf of the Multi-Party Negotiating Process and that they should decide amongst themselves and make the necessary arrangements with



regard to actual attendance at the proceedings.

**6.4 Avstig:**

After discussion it was agreed to finalise this matter at the next meeting of the Planning Committee.

**6.5 Peace Committee Request:**

It was noted that the school children bearing peace posters, John Hall and Miss South Africa would be arriving at 13h00. It was agreed that the current Chairperson of the Negotiating Council and/or the current Planning Committee Chairperson should be available to meet the delegation. Planning Committee members were requested to be available at 13h00 to form part of the delegation which would welcome the visitors.

**7. Administrative and Financial matters**

**7.1 Prosecutions and Goldstone recommendation - Reportback from the Sub-Committee:**

7.1.1 It was noted that the Sub-Committee did not have anything further to report on this issue to the meeting.

7.1.2 The Administration then gave a report to the meeting. It was noted that the trial had been set for 9 - 20 November.

**7.2 Correspondence to be dealt with:**

**7.2.1 African Industrial Development Corporation:**

It was noted that three representatives of the African Industrial Development Corporation would meet with the current Chairperson of the Planning Committee and submit their memorandum on Thursday 9 September 1993. It was further noted that any other Planning Committee members who wished to be present at the handing over of the memorandum could do so.

**7.2.2 Visit to WTC by individuals who want to distribute Bibles:**

The Administration was mandated to deal with this issue taking into account the views expressed in the meeting.

**7.3 Public availability of documents - Sub-Committee to report back:**

It was agreed to defer this item until a future meeting of the Planning

Committee.

## 8. Agenda and Programme for the Negotiating Council

- 8.1 The agenda and programme was approved of (see Addendum E of the agenda documentation).
- 8.2 It was noted that the Planning Committee would report back on the following issues to the Negotiating Council:
- \* Women in the TEC
  - \* The recommendation with regard to the Repeal or Amendment of Discriminatory Legislation.
- 8.3 Work of Constitutional Issues Technical Committee:
- \* It was noted that the 12th Report was distributed on Thursday 2 September 1993. This report should be presented by the Technical Committee before it is debated.

## 9. Schedule of Meetings

The schedule was approved of (see Addendum D).

## 10. Closure

- 10.1 It was agreed that the Planning Committee should meet during the course of the day on 7 September 1993 to deal with the following issues:
- \* Security - PAC
  - \* The PAC and SA Government Issue
  - \* The composition of the Commission on National Symbols
- 10.2 The meeting adjourned at 12h20.

**The meeting reconvened at 12h10 on Tuesday 7 September 1993.** Apologies were noted from FT Mdlalose, B Ngubane (Sub-Committee) and M Webb. D de Villiers as the current Negotiating Council Chairperson was present at the meeting.



## 11 Meetings Schedule

- 11.1 Discussion proceeded around the meetings schedule and the envisaged work programme of the Negotiating Council.
- 11.2 After discussion it was agreed not to meet on Thursday 9 September 1993 but that bilateral meetings should be given priority so that the Constitutional Issues could be given serious attention during the course of the week commencing 13 September 1993. It was furthermore agreed that the morning of Monday 13 September should also be utilised for bilateral meetings.
- 11.3 The Planning Committee recommendation to the Negotiating Council would, therefore, be as follows:
- \* No meeting of the Negotiating Council would occur on Thursday 9 September. It should be noted that the time had been set aside for bilateral meetings and ad-hoc committee work.
  - \* The Negotiating Council meeting on Monday 13 September would commence at 15h00 and go on until 22h00. It should be noted that Monday morning had been set aside for further bilateral meetings.
  - \* On Tuesday 14 September, the Planning Committee would meet at 09h30 and meeting of the Negotiating Council would commence at 14h00 and go on until 22h00.
  - \* The Negotiating Council meetings of Wednesday 15 September and Thursday 16 September would commence at 09h00 and go on until 19h00 and 18h00 respectively.
- 11.4 The Administration was requested to present the Planning Committee with an updated meetings schedule when the Planning Committee next met.

The meeting adjourned at 12h30. It was agreed that the Planning Committee should meet again at 14h30 to deal with the issue of the composition of the Commission on National Symbols.

The meeting reconvened at 14h55.

## 12. TEC and its Sub-Councils

- 12.1 It was noted that bilaterals were still continuing and more time was needed to resolve the issue. The Negotiating Council should be apprised of the situation and the need for the Council to remain adjourned for at least another hour.



- 12.2 It was further noted that the Technical Committee was still in the process of redrafting various clauses as per instruction from the Negotiating Council.

### 13. **Commission on National Symbols**

- 13.1 It was noted that M Singh had given notice that she was not available to serve on the Commission and her name was therefore withdrawn.
- 13.2 Discussion and debate followed on the suggested list of nominees.
- 13.3 It was agreed to defer the decision on the recommended composition but that the Planning Committee should meet before the Negotiating Council adjourned to be in a position to submit a recommendation on this issue to the Council today.

The meeting adjourned at 15h25.

The meeting reconvened at 18h00.

### 14. **TEC and its Sub-Councils**

- 14.1 It was noted that the Technical Committee had received reports from the outcome of the bilateral meetings.
- 14.2 A brief summary was given to the meeting on the reports/proposals submitted to the Technical Committee.
- 14.3 It was noted that all the outstanding issues had been resolved.
- 14.4 It was agreed to recommend to the Negotiating Council that, with regard to clauses that the Technical Committee was unable to draft in time for the reconvening of the Negotiating Council meeting, the Council approves the clauses in principle, subject to the Technical Committee drafting the clauses and the Planning Committee ensuring that the said clauses go through Parliament in an acceptable form, i.e. according to the principles agreed upon in the Negotiating Council.
- 14.5 It was agreed that the Technical Committee should report back to the Negotiating Council on clauses on which reformulation had been completed.
- 14.6 It was agreed that R Meyer would report back on clause 15 (2) (a) and MC Ramaphosa on clause 25 in the Negotiating Council. The report should be correctly minuted, the Technical Committee should accurately record the report and could therefrom draft the clauses.



14.7 It was agreed to submit a resolution to the Negotiating Council with regard to the adoption of the TEC Draft Bill as per the resolution previously adopted by the Negotiating Council with regard to the Draft Bill on the IEC, the IMC and the IBA. It was noted that the Negotiating Council should deal with the resolution before it adjourned its meeting. The contents of the resolution to be submitted on the TEC would be exactly the same as the adopted resolution on the other three Draft Bills.

14.8 It was agreed that the Planning Committee should reconvene its meeting once the Negotiating Council meeting had adjourned to finalise the drafting of the two outstanding clauses.

## 15. **Commission on National Symbols**

15.1 The Sub-Committee submitted a draft resolution to the meeting. After discussion it was agreed to submit the draft resolution to the meeting of the Negotiating Council as the recommendation from the Planning Committee (see Addendum E).

15.2 It was noted that the Negotiating Council should be made aware that the nominees had not yet been approached, but once the resolution had been adopted by the Negotiating Council the members would be formally approached for their acceptance.

## 16. **Commission on Regions**

16.1 The Sub-Committee reported to the meeting that a problem had arisen with regard to the Co-Chairpersonship. The Sub-Committee requested a decision on this issue from the meeting.

16.2 It was agreed to deal with this issue at a future meeting of the Planning Committee.

## 17. **TEC and its Sub-Councils**

It was noted that the Bophuthatswana Government had had to leave the meeting of the Negotiating Council early due to other appointments, but had notified the Chairperson thereof and submitted a statement with regard to its position on this issue.

The meeting adjourned at 18h20.

The meeting reconvened at 23h15. It was noted that Z Titus assumed the role of Chairperson as C Eglin could not be present. Present at the meeting were members of the

Technical Committee on the TEC and its Subcouncils.

## 18. **TEC and its Subcouncils**

- 18.1 It was noted that the Planning Committee had been mandated by the Negotiating Council to ensure that clauses agreed to in principle by the Council, but not yet drafted by the Technical Committee were in line with what had been agreed upon in the Council.
- 18.2 Discussion proceeded around the clauses as drafted by the Technical Committee.
- 18.3 Clause 9 (2) refers : The clause as amended was agreed to (see Addendum F).
- 18.4 Clause 15 (2) and (3) refers : The clauses as formulated were agreed to (see Addendum G).
- 18.5 Clause 25 refers : The clause as formulated was agreed to (see Addendum H). It was noted that the reference to clause 16 (2) (b) in clause 25(2)(a) should read 15 (2) (b).
- 18.6 It was agreed that consistency with regard to the "percentages" should occur throughout the Draft Bill.
- 18.7 With regard to certification of the Draft Bill, it was noted that there would be two drafts certified, i.e. one certified by the Administration on behalf of the Negotiating Council and one certified by the state law advisor. With regard to the draft certified by the law advisor, all amendments undertaken by the state law advisor should be highlighted to facilitate cross checking at a later stage.
- 18.8 The Technical Committee was then excused and thanked for its work completed.

## 19. **Meetings Schedule and Draft Programme**

- 19.1 It was noted that it was hoped that copies of the Electoral Act could be provided to participants before the weekend.
- 19.2 It was noted that the Planning Committee would meet at 15h00 on Monday 13 September 1993.

The meeting adjourned at 23h50.



These minutes were ratified at the meeting of the Planning Committee of 18 October 1993 and the amended version signed by the Chairperson of this meeting on ..... 1993.

  
.....  
CHAIRPERSON

1.	Prof Elize Botha	SA Govt	F
2.	FG Brownell	BOP/SA Govt	M
3.	Prof Lynda Gilfillan	ANC/Venda	F
4.	Bill Jardine	ANC/Venda	M
5.	Prof PHM Kapp	AVU/SA Govt	M
6.	Mrs PGP Maluleka	Inyandza	F
7.	Barbara Masekela	ANC/Venda	F
8.	Dr C Pama	DP/SA Govt	M
9.	CJ Reinecke	SA Govt	M
10.	Prof Mala Singh	NIC/TIC	F
11.	Prof Themba Sirayi	ANC	M
12.	Dr Musa Xulu	IFP	M



**TO THE PLANNING COMMITTEE**

**PROPOSAL REGARDING REPEAL OF LEGISLATION IMPEDING FREE  
POLITICAL ACTIVITY AS WELL AS DISCRIMINATORY LEGISLATION**

1. We propose a two person overall task group which would be responsible for identifying legislation in the SA Statute book as well as setting up and coordinating four sub-groups charged with identifying legislation in each of the four TBVC territories.
2. The overall task group will consist of:
  - a) A person seconded from the Ministry of Justice
  - b) Professor Johann Van der Westhuizen who is the director for the Centre of Human Rights, law faculty, University of Pretoria; Professor and head of the Department of Legal History, Comparative Law and Legal Philosophy, University of Pretoria.
3. The overall task group, in setting up sub-groups must ensure that in the case of each of the TBVC territories, a person seconded by the Ministry of Justice from the respective TBVC territories is included in the sub-groups.
4. The overall task group as well as each of the sub-groups should work continuously and file periodic reports for the attention of the MPNP.

6 September 1993





REPUBLIC OF SOUTH AFRICA/REPUBLIEK VAN SUID-AFRIKA

*DEPARTMENT OF HOME AFFAIRS*

*DEPARTEMENT VAN BINNELANDSE SAKE*

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The Chairpersons  
Sub-Committee of the Planning Committee  
Multi-Party Negotiating Process  
P O Box 307  
ISANDO  
1600

1993-09-03

Dear Sirs

**BURNING OF IDENTITY DOCUMENTS**

In reply to your letter dated 24 August 1993, in the above regard, I would like at the outset to point out that the media release of 16 August 1993 was the result of the internal investigation which was carried out by the Department. It must further be pointed out that the burnt documents were discovered by someone else than the Department as it only became known to the Department after the report in the Sunday Nation of 15 August 1993.

As far as the burnt documents are concerned, it is important to note that the majority of the surnames which appeared in the said report of the Sunday Nation has been traced on the list of stolen identity documents compiled by the Department. There is therefore no doubt that the burnt identity documents were those stolen from the Department's district office in Barberton.

As indicated in the press release, the matter has been referred to the South African Police who is still busy with their investigation. The Department will in the meantime continue its efforts to assist the inconvenienced applicants in obtaining new identity documents free of charge.

As a result of the original and subsequent reports in the Sunday Nation the Department has invited the reporter of the said paper to visit the Regional Representative of the Department in Nelspruit to view all relevant documentation available in order to clarify the matter for him. Up to date he has not responded to an arranged meeting with the Regional Representative. A meeting was however arranged with other political groupings which were attended and the Department is



satisfied that everything possible was done to satisfy those persons concerned.

It is further important to note that the incinerator where the Department disposes of the rest of the identity document, after page one thereof is removed, is in the same direction and vicinity outside Barberton as the one where the burnt documents were found. The Department would therefore, if guilty, have destroyed the documents in the incinerator in which case no remains would have been found.

The Department of Home Affairs is endeavouring to issue all South African citizens with an identity document before 27 April 1994 and has launched various initiatives to reach all the applicants who qualifies for an identity document. The results of these initiatives are made known on a continuous basis and the unsubstantiated report in question is very disappointing considering the tremendous progress that the Department has made with this project. The Department again would like to call on all concerned to assist applicants to apply for identity documents as soon as possible.

Yours sincerely



P J COLYN  
DIRECTOR-GENERAL

**REVISED PROPOSED SCHEDULE OF MEETINGS**

6 SEPTEMBER 1993

Planning Committee	Monday 6 September 1993	09h30-13h00
Negotiating Council	Monday 6 September 1993	14h00-19h00
Negotiating Council	Tuesday 7 September 1993	09h00-19h00
Negotiating Council	Thursday 9 September 1993	09h00-18h00

Planning Committee	Tuesday 14 September 1993	09h00-11h00
Negotiating Council	Tuesday 14 September 1993	11h00-20h00
Negotiating Council	Wednesday 15 September 1993	09h00-19h00
Negotiating Council	Thursday 16 September 1993	09h00-18h00

Planning Committee	Monday 20 September 1993	09h30-13h00
Negotiating Council	Monday 20 September 1993	14h00-20h00
Negotiating Council	Tuesday 21 September 1993	09h00-19h00
Negotiating Council	Wednesday 22 September 1993	09h00-19h00

Please note :

**The adjournment times of the Negotiating Council meetings as stated are target times, which will only apply if the agenda has been completed, subject to the final decision of the meeting.**



**DRAFT RESOLUTION ON A COMMISSION ON NATIONAL SYMBOLS  
PUT TO THE NEGOTIATING COUCIL ON  
7 SEPTEMBER 1993**

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

Prof Elize Botha as Chairperson

Mrs P G P Maluleka as Vice Chairperson, and

Mr F G Brownell

Prof Lynda Gilfillan

Mr Bill Jardine

Prof P H M Kapp

Ms Barbara Masekela

Dr C Pama

Prof C J Reineke

Prof Themba Sirayi

Dr Musa Xulu

Prof Fatima Meer

Ms Rosette Nothemba Mlonzi

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

● **The Commission is requested to -**

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



**Constitution of subcouncils**

9. (1) The members of the subcouncils shall be appointed in a full-time capacity by the Council, which shall give notice in the Gazette of each such appointment.
- (2) (a) **The membership of a subcouncil shall not be restricted to members of the Council.**
- (b) **The subcouncils referred to in section 8(1)(b), (c) and (g), shall each have eight members.**
- (c) **The subcouncils referred to in section 8(1)(a), (d), (e), and (f), shall each have six members.**
- (3) The Council shall not appoint more than one person representing any participant in the Council on a particular subcouncil.
- (4) If a member of a subcouncil is for any reason unable to perform the duties of his or her office, the Council may appoint in writing a substitute member to act in the place of the member concerned, and for that purpose that substitute member shall have all the powers and duties of the member concerned.

**Powers and duties in regard to law and order, stability and security**

15. (1) The Council shall, for the purpose of achieving its objects, have the following powers to be exercised through its Subcouncil on Law and Order, Stability and Security :
- (a) To establish a national inspectorate comprised of members of policing agencies and such other persons as the Subcouncil may determine, which shall investigate and monitor all policing agencies, and shall liaise with all such agencies or their inspectorates in order to promote the objects of the Council;
  - (b) to investigate, or order the investigation by the national inspectorate of, any matter relating to the functions of the Subcouncil, and for such purpose the Subcouncil and the national inspectorate shall, subject to the other provisions of this Act, have the authority to interview such persons as they may consider necessary, and shall, subject to the other provisions of this Act, have access to all such documents and facilities of any policing agency as may be necessary for purposes of the investigation;
  - (c) to establish, in consultation with the appropriate Ministers responsible for the various policing agencies, a national independent complaints mechanism under the control of a civilian, which shall be responsible for the receipt and investigation of complaints lodged by members of the public concerning alleged police misconduct: Provided that if no agreement is reached between the Ministers concerned and the Subcouncil within one month of the establishment of the Subcouncil, the matter shall be referred to the committee referred to in subsection (2)(c) for final determination;
  - (d) to request and obtain, subject to the other provisions of this Act, any information or crime intelligence reports compiled by any policing agency;



- (e) to establish a committee comprised of local experts or of local and foreign experts, to evaluate or monitor any police action, conduct or reform which relates to the objects of the Council;
  - (f) to call for a report on and evaluate the impact of any steps taken by any policing agency to prevent political violence, including such steps as any policing agency is required to take in terms of the National Peace Accord and relevant legislation;
  - (g) to make proposals, after such consultation as it may deem necessary and in consultation with the policing agencies concerned, to improve the effectiveness of and community co-operation with such policing agencies, which proposals shall be given effect to by the participants in the Council and the policing agencies concerned;
  - (h) to receive all recommendations of the Police Board, and to request the Police Board to conduct inquiries and to make recommendations in relation to any policing policy;
  - (i) to require minutes of and attend any relevant meeting of any policing agency;
  - (j) to formulate a statement of values and objects for the promotion of law, order, peace, stability and security for policing agencies, and to introduce or amend a code of conduct which shall be binding on all policing agencies, all participants in the Council and, with the consent of any signatory of the National Peace Accord not participating in the Council, on that signatory as well;
  - (k) to require the investigation of any activity or action by a member of a policing agency which is alleged to have or to have had an adverse effect on the attainment of the objects of the Council and, in consultation with the appropriate Minister, where necessary, require the suspension, with full pay, of such member pending the outcome of the investigation;
  - (l) to liaise with the Independent Electoral Commission and the National Peace Secretariat and other structures of the National Peace Accord concerning matters relevant to the objects of the Council; and
  - (m) to receive all proposed regulations and directives governing the activities of the National Peacekeeping Force and to make recommendations in regard thereto.
- (2) (a) The power of the State President to declare the existence of a state of emergency shall only be exercised after consultation with the Subcouncil.



- (b) The Council may by a decision which has the support of at least eighty percent of the members of the Council, review such a declaration and direct the State President to withdraw it, and the State President shall forthwith comply with such direction.
  
- (3)
  - (a) **Subject to subsection (2)**, any Minister or other person (hereinafter in this section referred to as "the functionary") who has the authority to declare the existence of a state of emergency or to declare an area to be an unrest area, as the case may be, and to make regulations with regard thereto, shall, subject to paragraph (b), do so in consultation with the Subcouncil.
  
  - (b) Where the circumstances are urgent and pressing and the appropriate functionary is unable to consult with the Subcouncil before making such a declaration, such functionary may make such declaration without such consultation: Provided that if the Subcouncil at its first meeting thereafter, having due regard to such reasons as may be advanced by the functionary for such declaration, does not give its approval to the declaration concerned, the functionary on being notified thereof by the Subcouncil, shall, subject to paragraph (c), forthwith withdraw the declaration.
  
  - (c) If the functionary and the Subcouncil are unable to reach agreement as to the necessity of a declaration referred to in paragraph (a) or (b), either party may refer the matter to a committee, composed from the civilian membership of the Police Board, for determination, which determination shall be given within three days of such referral and shall be binding on the functionary, the Council and the Subcouncil, and be given effect to.
  
  - (d) The committee referred to in paragraph (c) shall be comprised of the chairperson and vice-chairperson of the Police Board and one other member of that Board elected by the civilian members of the Board.
  
- (4) To the extent that an agreement of the nature contemplated in section 34G of the Police Act, 1958 (Act No. 7 of 1958), could have an effect on the attainment of the objects of the Council, the decision to enter into such an agreement shall be taken by the responsible Minister or other responsible functionary in consultation with the Subcouncil.
  
- (5) The State President and the Minister of Law and Order, exercising any power in terms of section 3 of the Police Act, 1958, or the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republic of Transkei, Bophuthatswana, Venda or Ciskei or any self-governing territory, in relation to an officer of the rank of brigadier or above,



shall act in consultation with the Subcouncil, which may propose such action itself: Provided that if no agreement is reached between the State President or the Minister or the functionary concerned and the Subcouncil, either party may refer the matter to the committee referred to in subsection (2)(c) for determination, which determination shall be given within seven days after such referral and shall be binding and be given effect to.

- (6) (a) To the extent that it may affect the objects of the Council, the Minister of Law and Order, exercising any power in terms of section 33 of the Police Act, 1958, or the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republic of Transkei, Bophuthatswana, Venda or Ciskei or any self-governing territory, to make, amend or repeal regulations or issue directives governing relevant aspects of police conduct, functioning, structures and restructuring, shall act in consultation with the Subcouncil, which may propose such action itself: Provided that if no agreement is reached between the Minister or the functionary and the Subcouncil, either party may refer the matter to the committee referred to in subsection (2)(c) for determination, which determination shall be given within seven days after such referral and shall be binding and be given effect to.
- (b) If the Minister of Law and Order, or the appropriate functionary exercising corresponding powers provided for in corresponding legislation of the Republic of Transkei, Bophuthatswana, Venda or Ciskei or any self-governing territory, issues directives of the nature contemplated in section 4 of the Police Act, 1958, the said Minister or functionary shall inform the Subcouncil thereof.
- (7) (a) The various policing agencies shall designate officers of the rank of brigadier or above to the Subcouncil to assist it in drafting rules to ensure uniformity of conduct of members of the said agencies and the co-ordinated control and command of such agencies in so far as that conduct or the functions of those agencies have a bearing on the objects of the Council.
- (b) The said rules shall be formulated within one month after the establishment of the Subcouncil and shall be promulgated by the Council by notice in the Gazette: Provided that if the rules are not formulated within that period or do not meet with the approval of the Minister or functionary referred to in subsection (5), the matter shall be referred to the committee referred to in subsection (2)(c) for final determination.
- (c) The officers referred to in paragraph (a) may be summoned at any time to assist the Subcouncil in the performance of its functions.

**Administrative support staff and accounting**

26. (1) The Council shall at its first meeting, or as soon as possible thereafter, appoint a person to the office of Executive Director who -
- (a) shall be responsible for the management of and administrative control over the staff appointed or seconded in terms of section 7(1)(d) and (e), respectively;
  - (b) shall, subject to the Exchequer Act, 1975 (Act No. 66 of 1975) -
    - (i) be charged with the responsibility of accounting for State monies received, or paid out, for or on account of the Council and the subcouncils; and
    - (ii) cause the necessary accounting and other related records to be kept;