

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 14h25 ON MONDAY 30 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

The minutes of the meetings of 18 August and 23 August 1993 were distributed during the course of the day for ratification at the next meeting of the Negotiating Council.

5. Reportback from the Planning Committee

5.1 Progress Report on the Bilaterals:

It was noted that good progress was being made and once the issues had been resolved a report would be submitted to the Negotiating Council.

5.2 Further steps on the Delimitation/Demarcation of Regions:

It was noted that a document on the further work programme would be submitted to the Negotiating Council for its approval during the course of the afternoon.

5.3 Commission on National Symbols:

It was noted that the Planning Committee was still awaiting Curriculum Vitae's from participants in respect of nominees. Furthermore, that a recommendation could not be made to the Negotiating Council on the composition of the Commission until all the Curriculum Vitae's had been received. Participants were requested to submit the outstanding Curriculum Vitae's as a matter of urgency by 18h00 today.

5.4 Independent Electoral Commission:

It was noted that as a result of the procedure agreed upon by the Negotiating Council for resolution of the points of dispute with regard to the Draft Bill of the IEC, virtual consensus had been reached. It was further noted that the report resulting from the meetings was in the process of being typed and would be distributed during the course of the afternoon for discussion in the meeting of the Negotiating Council on 31 August 1993.

5.5 It was noted that the Planning Committee was still in the process of dealing with outstanding issues and would report back to the Negotiating Council as soon as the issues had been dealt with.

6. **Substantive Issues**

6.1 **Final Report of the Technical Committee on the Independent Media Commission:**

6.1.1 The Technical Committee was welcomed. Present were D Dison, P Pretorius, M Markowitz (technical support), C Noffke and D van Zyl (State Law Advisor). Apologies were noted from A Armstrong and EJ Mabuza. The meeting then proceeded to deal with the outstanding clauses. Discussion and debate followed during which questions of clarity were put to the Technical Committee.

6.1.2 Definition "broadcasting" refers:

* The clause as formulated was agreed to.

6.1.3 Definition "community" refers:

* The clause as formulated was agreed to.

6.1.4 Definition "community broadcasting services" refers:

* The clause as formulated was agreed to.

- 6.1.5 Definition "election" refers:
- * It was suggested that "referendum" should be defined.
 - * This definition would only be finalised once the IEC had reached agreement on this.
- 6.1.6 Definition "election period" refers:
- * It was agreed that in the definition of an election period, the concept of a referendum should be included.
 - * It was suggested that the election period should commence after the closing day of the registration of parties participating in the elections. After a response from the Technical Committee it was further suggested that the issue should be clarified with the Technical committee on the IEC.
 - * This definition would only be finalised once the IEC had reached agreement on this.
- 6.1.7 Definition "political party" refers:
- * The Technical Committee suggested that the words "as the case may be" should be inserted after the words "registered parties". This would clarify that it is either the alliance or the political party. The Technical Committee noted that it would reformulate this clause to make this clear.
 - * This definition would only be finalised once the IEC had reached agreement on this.
- 6.1.8 Definition "telecommunication" refers:
- * The clause as formulated was agreed to.
- 6.1.9 Clause 6 (1) (d) "Persons disqualified from being commissioners" refers:
- * It was suggested that the clause was far too wide.
 - * It was agreed that the word "body" should be excluded from this sub-clause.
 - * It was suggested that the word "institution" should

replace the word "body".

- * It was agreed that this clause should be referred for cross reference between this Technical Committee and the Technical Committee on the IEC, taking into account the views expressed in the meeting. Reformulation may be necessary.

6.1.10 Clause 19 (8) "Party election broadcasts on sound broadcasting services during election period" refers:

- * The clause as formulated was agreed to.

6.1.11 Clause 24 (1) (c) "Orders and recommendations of commission" refers:

- * The clause as formulated was agreed to.

6.1.12 Clause 31 "Extraterritorial extension of Commission's jurisdiction by agreement between Republic and any state or territory previously part of Republic" refers:

- * It was agreed to accept this clause and clause 31 A as formulated.

6.1.13 Clause 33 "Dissolution of Commission, and cessation of Act" refers:

- * The clause as formulated was agreed to.

6.1.14 It was suggested that the Planning Committee should go into the issue of the consistency of definitions throughout the Draft Bills under consideration by the Negotiating Council. It was noted that such a meeting was scheduled to take place before the end of the day on 31 August 1993.

6.1.15 Clause 4 "Constitution of Commission and appointment of commissioners" refers:

- * It was suggested that the words "upon the advice of the Transitional Executive Council to the State President" should be inserted in this clause for consistency.

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

6.2 **Eleventh Working Draft of the Transitional Executive Council Bill:**

6.2.1 The Technical Committee on the TEC was welcomed. Present were Z du Toit, F Haysom, CJ Heunis and D van Wyk. Apologies were noted from E Mapheto and J Renene. Discussion and debate then proceeded from sub-clause 16 (4) "Powers and duties with regard to defence". During the course of the debate questions of clarity were put to the Technical Committee.

6.2.2 Clause 16 "Powers and duties with regard to defence" refers:

- * Clause 16 (5) as formulated was agreed to.
- * Clause 16 (6) as formulated was agreed to.
- * Clause 16 (7) as formulated was agreed to.
- * It was noted that the South African Government would make a written submission to the Technical Committee with regard to clause 16 (8). It was suggested that the submission of the South African Government should be put directly to the house before the end of the session.
- * Clause 16 (8) refers. It was suggested that the international community, in an advisory capacity should assist with regard to the issue of the arms caches. It was further suggested that they should assist the Subcouncil on this issue.
- * Clause 16 (9) (a) as formulated was agreed to.
- * Clause 16 (9) (b) as formulated was agreed to. It was noted that the PAC would make a submission on this clause with regard to the participation of the international community in the National Peacekeeping Force.
- * Clause 16 (10) was agreed to as formulated.
- * Clauses 16 (11) (a), (c), (d) (e) (i) and (e) (ii) were agreed to as formulated.
- * Clause 16 (11) (e) (iii) refers : It was agreed to add the following words to the end of the sentence "provided that the provision of clause 6 (2) shall apply mutatis mutandis to such regulations".

- * Clause 16 (11) (e) (iv), (v) and (vi) were agreed to as formulated.
- * With regard to 16 (11) (g) it was agreed to give the South African Government an opportunity to formulate a proposal with regard to this clause before the end of the meeting.
- * Clause 16 (12) (a) was agreed to as formulated.
- * It was agreed to accept clause 12 (b) (i) with the addition of the following words between the words "Council and" and "the South" : "after consultation with".
- * Clause 16 (12) (b) (ii) was agreed to as formulated.
- * Clause 16 (12) (c) was agreed to as formulated, but it was noted that the Technical Committee would consider concerns raised in the meeting around the word "supplied".
- * Clause 16 (13) was agreed to as formulated.
- * It was suggestion that an additional sub-clause should be inserted under clause 16 (1) and should read "To lay down in consultation with the Subcouncil on Foreign Affairs a policy in respect of relations between any defence force and any other country concerning training, joint exercises, joint operations or any other matter affecting the defensive relationship between South Africa and any other country". It was noted that the DP would make a submission in writing to the Technical Committee on this proposal.

6.2.3 Clause 17 "Powers and duties in regard to finance" refers:

- * It was agreed to accept clause 17 (1) (b) with the insertion of the following words "in respect of the 1994/95 fiscal year" after the word "committees".
- * Clause 17 (1) (e) was agreed to as formulated.
- * It was suggested that clause 17 (1) (f) should be contained in the objects and powers of the Council.
- * It was agreed to accept clause 17 (1) (f) as amended to

read "to investigate or require the investigation of specific allegations of corruption or inefficiency that may have an adverse effect on the attainment of the objects of the Council".

- * Clause 17 (1) (g) was agreed to as amended.
- * It was agreed that the Technical Committee should reformulate clause 17 (1) (i) taking into account the views expressed in the meeting.
- * It was noted that the SACP proposed an additional sub-clause under clause 17 (1) to read "To give the Subcouncil the power to direct the Treasury to cease transferring any funds in the case of any of the TBVC States which refuses to incorporate the provisions of this Act into the law of the State concerned". It was suggested that this would be more appropriately raised under clause 17 (6). After discussion it was agreed that the SACP would make a written submission on this issue to the Technical Committee.
- * It was noted that the meeting then moved to the 12th working draft of the Transitional Executive Council Bill and the discussion and debate continued.
- * Clause 17 (2) (a) was agreed to as formulated.
- * It was agreed to accept clause 17 (2) (b) as formulated.
- * Clauses 17 (3) (b), (c), (e) and (f) were agreed to as formulated.
- * It was agreed to accept clause 17 4 (a) (i) with the insertion of the following words after the word "the" at the beginning of the clause : "upgrading or the".
- * Clause 17 (4) (a) (ii) was agreed to as formulated.
- * Various amendments to clause 17 (4) (b) were proposed. After lengthy discussion it was agreed that the Technical Committee and the various participants debating the proposed amendments, meet informally over tea and suggest a possible formulation which would take into account the views expressed in the meeting.

- * Clause 17 (5) was agreed to as formulated and therefore the note could be deleted. It was noted that the Technical Committee was in the process of drafting a clause to address the issue of confidentiality with regard to this clause.

- * It was again noted that the SACP would be making a submission to the Technical Committee with regard to clause 17 (6). It was further noted that clause 17 (6) was agreed to as formulated, with a reservation expressed by the Bophuthatswana Government.

- * Clause 17 (7) was agreed to as formulated.

6.2.4 Clause 18 "Powers and duties in regard to foreign affairs" refers:

- * Clause 18 (c) was agreed to as formulated.

- * Clause 18 (e) was agreed to as formulated.

- * It was noted that the PAC would be making a written submission to the Technical Committee on this clause only to suggest possible new sub-clauses and not to revisit clauses already agreed upon by the Negotiating Council.

6.2.5 Clause 19 "Powers and duties in regard to the status of women" refers:

- * Clauses 19 (a), (c), (g) and (i) were agreed to as formulated.

6.2.6 Clause 20 "Powers and duties in regard to intelligence" refers:

- * Clauses 20 (1) (a), (b), (b) (i), (b) (ii), (c), (d), (e), (f), (g), (h), (i) (i), (i) (ii), (i) (iii), (j), (k) and (l) were agreed to as formulated.

- * Clauses 20 (2) (a) and (b) were agreed to as formulated.

- * Clauses 20 (3) (a) and (b) were agreed to as formulated.

- * Clause 20 (4) was agreed to as formulated.

6.2.7 Clause 21 "Application of Act" refers:

- * It was noted that no amendments had been made to this clause but that some of the issues pertaining to this clause were under discussion in bilateral meetings.

6.2.8 Clause 22 "Procurement of information" refers:

- * It was agreed to defer the discussion on this clause until the next meeting of the Negotiating Council as participants had only just received the draft.
- * It was agreed that the Negotiating Council mandates the Planning Committee to investigate the alleged issue of files being destroyed. This would facilitate the practical application of clause 22.

6.2.9 Clause 23 "Resolution of disputes" refers:

- * It was agreed that, as participants had only just received this draft, this clause should be dealt with at the next meeting of the Negotiating Council.
- * It was agreed that the principle of no right to appeal should apply to this clause.

6.2.10 Clause 24 "Meetings and office-bearers" refers:

- * Clause 24 (1) was agreed to as formulated.
- * Clause 24 (4) (iv) was agreed to as formulated.
- * Clause 24 (5) was agreed to as formulated.
- * Clause 24 (6) was agreed to as formulated.

6.2.11 Clause 25 "Decisions" refers:

- * It was noted that this clause was still under discussion in bilateral meetings.

6.2.12 Clause 26 "Administrative support staff and accounting" refers:

- * It was agreed to accept clause 26 (1) as amended to read as follows "The Council shall at its first meeting or as soon thereafter as possible appoint a person to the office of Executive Director who".
- * Clause 26 (1) (a), (1) (b) (i), (1) (b) (ii), (1) (c) and (2)

were agreed to as formulated.

- * It was noted that a technical change was necessary with regard to clause 26 (3) to bring it into line with the budgetary procedures. It was noted that the National Party would make a written submission to the Technical Committee in this regard and therefore this clause would appear before the Negotiating Council again.

6.2.13 Clause 28 "Amendment of Act" refers:

- * Clause 28 (1) was agreed to as formulated.

6.2.14 Definition "armed force" refers:

- * The definition as formulated was agreed to.

6.2.15 It was noted that the Technical Committee was still in the process of determining whether a definition of Constitution was necessary.

6.2.16 Definition "Special Electoral Court" refers:

- * The definition as formulated was agreed to.

6.2.17 Definition "traditional authority" refers:

- * It was noted that the Technical Committee would submit a reformulation to the Negotiating Council at its next meeting.

6.2.18 Clause 2 "Establishment of Transitional Executive Council" refers:

- * Clause (2) (b) was agreed to as formulated.

6.2.19 Clause 3 "Objects of Council" refers:

- * Clause 3 (a) (iv) was agreed to as formulated.
- * It was suggested that reference should be made in this clause to the fact that the Council has as one of its objects to facilitate the transition. The Technical Committee was instructed to put forward a recommendation which focuses on the concept of facilitating the transition. It was noted that the

Technical Committee should take into account all the views expressed in the meeting on this suggestion.

- 6.2.20 Clause 4 "Constitution of Council" refers:
- * Clause 4 (1) (b) (i) refers : The Technical Committee was requested to consider, for reasons of consistency, whether there should not be an equivalent clause under clause 4 (5) (a).
 - * The Technical Committee noted that they were drafting a sanctions clause to cater for concerns raised on this issue by participants.
 - * Clauses 4 (1) (b) (i) were agreed to as formulated.
 - * Clause 4 (2) was agreed to as formulated.
 - * Clause 4 (6) was agreed to as formulated.
- 6.2.21 Clause 5 "Vacation of office, removal from office, filling of vacancies and dissolution of Council" refers:
- * It was agreed to accept clause 5 (4) as formulated.
- 6.2.22 Clause 7 "General powers of Council" refers:
- * It was agreed to accept clause 7 (1) (j) as formulated.
 - * It was agreed to accept clauses 7 (3) (a), 7 (3) (b) and 7 (3) (c) as formulated.
 - * It was agreed to accept clause 7 (4) as formulated.
- 6.2.23 Clause 9 "Constitution of Subcouncils" refers:
- * It was agreed to accept clause 9 (3) as formulated.
- 6.2.24 Clause 10 "Vacation of office, removal from office and filling of vacancies and dissolution of in Subcouncils" refers:
- * It was agreed to accept clause 10 (1) as formulated.
- 6.2.25 Clause 12 "General powers of Subcouncils" refers:
- * It was agreed to accept clause 12 (1) (c) as formulated.

- 6.2.26 Clause 13 "Powers in regard to certain proposed legislation and other actions" refers:
- * It was agreed to return to this clause at the next meeting of the Negotiating Council.
- 6.2.27 Clause 14 "Powers and duties in regard to regional and local government and traditional authorities" refers:
- * It was agreed to accept clauses 14 (a) and (i) as formulated.
- 6.2.28 Clause 15 "Powers and duties in regard to law and order, stability and security" refers:
- * It was agreed to accept clauses 15 (1) (a) and (1) (b) as formulated.
 - * It was noted that clause 15 (c) was still under discussion in bilateral meetings.
 - * It was agreed to accept clause 15 (g) as formulated.
 - * It was agreed that clauses 15 (2) (a), (2) (b) and (2) (c) be dealt with at the next meeting of the Negotiating Council.
 - * It was agreed to deal with clauses 15 (3), 15 (4), 15 (5) and 15 (6) at the next meeting of the Negotiating Council.
- 6.2.29 Clause 16 "Powers and duties in regard to defence" refers:
- * It was agreed that the whole of section 16 should be dealt with at the next meeting of the Negotiating Council.
- 6.2.30 The Technical Committee was thanked for its work so far completed.

7. **Administrative and Financial Matters**

- 7.1 A Fact Sheet with regard to Travel arrangements was noted (see Addendum B). It was noted that flexibility did remain.

- 7.2 The proposed schedule of meetings and the draft programme was agreed to (see Addendum C).

8. **Closure**

The meeting was adjourned at 19h25.

These minutes were ratified at the meeting of the Negotiating Council of 28 September 1993 and the amended version signed by the Chairperson of the original meeting on ...*18/11/1993*...


.....
CHAIRPERSON

Addendum A

The following delegates and advisers were present at the meeting of the Negotiating Council on Monday 30 August 1993:

M Finnemore : Chairperson
PJ Gordhan : Assistant Chairperson

Organisation	Delegates	Advisers
ANC	C Ramaphosa B Kgosisile	J Netshintenshe M Manzini
AVU	C Pienaar AJ Horn	A Beyers AJJ van Rensburg
Bophuthatswana	R Cronje R Mangope	BE Keikelame SG Mothibe
Cape Trad. Leaders	GD Gwadiso SN Sigcau	DM Jongilanga
Ciskei	TM Bulube	IJ Smuts
DP	CW Eglin	KM Andrew PG Soal
Dikwankwetla	SOM Moji JSS Phatang	K Ngwenya
IFP		
IYP	NJ Mahlangu	AP Laka Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	MS Gininda GG Zama
Kwazulu		
Labour Party	L Landers CC August	CG Leander
NIC/TIC	K Mayet E Gandhi	B Pillay
NP	D de Villiers TJ King	L Wessels SJ Schoeman
NPP	A Rajbansi S Naidoo	H Pithambar I Bhagwandin

● S Trad. Leaders	MB Mota MT Moroke	RH Mopeli TE Phoofolo
PAC	P de Lille B Desai	E Sibeko R Sizani
Solidarity	DS Rajah	G Mari
SACP	J Slovo L Jacobus	S Shilowa E Pahad
SA Government	RP Meyer LR Brink	TJ Kruger
Transkei	Z Titus N Jajula	R Nogumla
TVL Trad. Leaders	MF Mngomezulu	NE Ngomane MA Netshimbupfe
UPF	A Chabalala J Maake	NM Tsheole
Venda	SE Moeti	GM Ligege S Makhuvha
XPP	ST Mona MH Matjokana	GNK Hetisani EE Ngobeni

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

MULTI-PARTY NEGOTIATING PROCESS
Tel (011) 397-1198 Fax (011) 397-2211

27 August 1993

FACT SHEET

TRAVEL ARRANGEMENTS

**TO ALL MEMBERS OF DELEGATIONS TO THE
NEGOTIATING COUNCIL
TO ALL MEMBERS OF TECHNICAL COMMITTEES AND
COMMISSIONS
TO ALL MEMBERS OF TECHNICAL SUPPORT TEAMS**

Dear Sir/Madam

You are kindly requested to note that in future you will have to submit a written application (copy attached) when requiring an air ticket from Administration. This arrangement will apply to our Travel Office at the World Trade Centre or any of our accredited travel agencies and is introduced to facilitate accounting procedures.

Application forms for air tickets (a copy is attached) are available at our Travel Office in the World Trade Centre or from Administration. Completed applications may be submitted or faxed to our Travel Office or any of our accredited travel agencies.

You are reminded that

- We only pay for return air transport in economy class (and air tickets limited to one ticket for meetings taking place on consecutive days);
- No claims for car hire or chartered aircraft are accepted; and
- Flights prepaid by the Administration do not qualify for credits in terms of any frequent flyer or similar scheme.

You may still make your own travel arrangements and reclaim expenses on a claim form supplied by the Administration. Please note that faxed copies of claims, flight tickets and hotel bills are unfortunately not acceptable.

Thank you for your co-operation.


DR THEUNS ELOFF
HEAD: ADMINISTRATION

MULTIPARTY NEGOTIATING PROCESS

Tel (011) 397-1198 Fax (011) 397-2211

APPLICATION FOR AN AIR TICKET

TO:

at:

Please issue ticket/s for the following journey/s and charge the cost to the *Multi-Party Negotiating Process, Private Bag X804, PRETORIA.*

DETAILED ITERNARY

From:	To:	Date:	Flight No.:
From:	To:	Date:	Flight No.:
From:	To:	Date:	Flight No.:
From:	To:	Date:	Flight No.:

NAME:
(Please print initials and surname)

CAPACITY:
(State delegate or adviser or name of technical committee)

PARTY/ORGANISATION:

.....

PURPOSE OF JOURNEY:

.....

.....

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Signature

.....

Date

NB. This warrant must be completed by the delegate/adviser himself/herself before handing it to the Travel Office or the Travel Bureau.

For use by Travel Office or Travel Bureau

Authorisation number:

This is to certify that economy class was fully booked (if applicable)

Signature Travel Office or Travel Bureau

DRAFT PROGRAMME FOR MEETINGS

30 AUGUST 1993

Monday 30 August 1993	Discussion:	* IMC (finalise) * TEC
	(Distribution: TEC, IEC and IBA)	
Tuesday 31 August 1993	Discussion:	* IMC (finalise) * IEC (finalise) * TEC
Wednesday 1 September 1993	Discussion:	* IBA (finalise) * TEC (finalise) * Formal adoption of the Draft Bills on the TEC, IEC, IMC and IBA
Thursday 2 September 1993	Discussion:	* Interim Constitution
Monday 6 September 1993	Discussion:	* Interim Constitution
Tuesday 7 September 1993	Discussion:	* Interim Constitution
Wednesday 8 September 1993	Discussion:	* Draft Electoral Act
Thursday 9 September 1993	Discussion:	* Draft Electoral Act
Wednesday 15 September 1993	Discussion:	* Interim Constitution
Thursday 16 September 1993	Discussion:	* Interim Constitution
Friday 17 September 1993	Discussion:	* Interim Constitution * Draft Electoral Act

REVISED PROPOSED SCHEDULE OF MEETINGS

30 AUGUST 1993

Planning Committee	Tuesday 31 August 1993	09h00-10h00
Negotiating Council	Tuesday 31 August 1993	10h00-22h00
Negotiating Council	Wednesday 1 September 1993	11h00-19h00
Negotiating Council	Thursday 2 September 1993	09h00-18h00
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	Wednesday 8 September 1993	11h00-19h00
Negotiating Council	Thursday 9 September 1993	09h00-18h00
Planning Committee	Wednesday 15 September 1993	11h00-13h00
Negotiating Council	Wednesday 15 September 1993	14h00-20h00
Negotiating Council	Thursday 16 September 1993	09h00-19h00
Negotiating Council	Friday 17 September 1993	08h30-14h00

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 AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON TUESDAY 14 SEPTEMBER 1993 AT 09H00**

Chairpersonship - M Finnemore assisted by PJ Gordhan

1. Moment of Prayer/Meditation

2. Welcome and Attendance

3. Ratification of Agenda

4. Minutes

Distribution of minutes to be ratified at the next meeting of the Negotiating Council

5. Planning Committee Reportback

6. Substantive Issues

6.1 Third Draft Constitution for the Transition

6.1.1 Eleventh Report of the Technical Committee on Constitutional Issues

6.1.2 Twelfth Report of the Technical Committee on Constitutional Issues

7. Administrative and Financial Matters

8. Meetings Schedule and Draft Programme (addended)

9. Closure