

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 11h25 ON WEDNESDAY 4 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 the no amendments.

4. Minutes

4.1 The minutes of 29 July 1993 were adopted with no amendments.

4.2 No matters arising were noted out of the minutes of 29 July 1993.

5. Reportback from the Planning Committee

5.1 Planned Visit to the East Rand:

5.1.1 It was noted that this issue was still under extensive discussion in the Planning Committee and a report would be available for the Negotiating Council after lunch.

5.1.2 Before the meeting adjourned the Planning Committee reported back on this issue. The following was noted:

- * The Planning Committee recommended that the Negotiating Council at this point should not, for security reasons, visit the

area. This recommendation was accepted.

- * The matter would be kept under constant review and as soon as it was deemed advisable, the visit would take place.
- * The Planning Committee was of the view that the issue was important and would be given the necessary attention.
- * Individual delegations were free to go and visit the area and express their concerns.
- * It was agreed to mandate the Planning Committee to issue a media statement on behalf of the Negotiating Council on this issue and to state the concern of the Council with regard to the ongoing violence and the loss of life.

5.2 Peace-Keeping Force:

It was noted that this issue was still under discussion in the Planning Committee and no recommendation was as yet available.

5.3 Technical Committee on Constitutional Issues:

5.3.1 It was noted that the further Draft Outline of the Constitution would be received by the Administration on Friday 6 August 1993 and would be couriered to participants over the weekend. It was recommended that Constitutional Issues be dealt with during the course of the week commencing 9 August 1993.

5.3.2 It was noted that the Report of the Technical Committee on Confederalism and self-determination was still to be debated in the Negotiating Council and would probably be dealt with during the course of the next two weeks.

5.4 Technical Committee on the TEC and its Sub-Councils:

It was noted that this Technical Committee's next report would be received by the Administration on Friday 6 August 1993 and couriered to participants over the weekend. It was recommended that this report be discussed and debated in the Negotiating Council during the course of the week commencing 9 August 1993.

5.5 Technical Committee on the Independent Electoral Commission:

It was noted that the Technical Committee was awaiting the report from the ad-hoc committee encompassing recommendations with regard to the points of difference before the Technical Committee could proceed with its work.

5.6 **Technical Committee on the Repeal or Amendment of Discriminatory Legislation:**

It was noted that the work of this Technical Committee overlapped with the work of the Technical Committee on the Independent Electoral Commission, the Technical Committee on Fundamental Human Rights during the Transition and the Technical Committee on Constitutional Issues and that a combined meeting of these Technical Committees was scheduled to take place on Monday 9 August 1993 to discuss this issue.

5.7 **Technical Committee on the Independent Media Commission:**

It was noted that the report of this Technical Committee would be dealt with in the Negotiating Council meeting of 5 August 1993.

5.8 **Commission on the Delimitation/Demarcation of Regions:**

5.8.1 It was noted that at 14h00 today a one hour period had been provided for to allow participants to address questions of clarity to members of the Commission on its Report.

5.8.2 It was noted that no debate would occur in today's meeting but on Monday 9 August 1993.

5.8.3 It was noted that the Planning Committee would only be in a position to make a recommendation to the Negotiating Council as to how the debate on the Report of the Commission should proceed after today's meeting.

5.9 **Ad-Hoc Committee on the TBVC States:**

5.9.1 The following composition for the Ad-Hoc Committee on the TBVC States as recommended by the Planning Committee was agreed to:

C Eglin (convenor)
BE Keikelame
T Mbeki
SE Moeti
Z Titus
M Webb
L Wessels

5.9.2 It was noted that the Ad-Hoc Committee was required to produce a report by Thursday 12 August 1993.

5.10 **National Symbols and Language:**

It was noted that the Planning Committee had had a preliminary discussion on this issue but was not yet in a position to submit a formal recommendation to the Negotiating Council.

5.11 Ad-Hoc Committees of the Negotiating Council:

Concerns were expressed about the pace the Ad-Hoc Committees were working at.

It was noted that the Ad-Hoc Committee had been established only to deal with political differences arising out of debates in the Negotiating Council that the Technical Committee's were unable to deal with and not to engage in general discussions and debate.

6. Substantive Issues

6.1 Sufficient Consensus:

6.1.1 PJ Gordhan, convener of the ad-hoc committee on Sufficient Consensus presented the report of the committee to the Negotiating Council.

6.1.2 Discussion and debate followed on the issue. Questions of clarity, recommendations and proposals were put to the convener.

6.1.3 After the discussion it was noted that:

6.1.3.1 The Standing Rules remained a sufficient technical mechanism to take the process forward and acted as a foundation for the negotiating process in general and the decision taking process within the Negotiating Council;

6.1.3.2 The report provided the Chairpersons with a uniform set of guidelines within which to operate and to ensure that there is a relatively common approach taken by the Chairpersons in relation to decision taking, particularly in respect of sufficient consensus.

6.1.3.3 The guidelines would improve both the climate in the Negotiating Council and its effectiveness in reaching decisions on the various substantive issues.

6.1.3.4 The suggestions that had been made by participants in the Negotiating Council would be considered by the Planning Committee with a view to giving effect to them in an appropriate way and in an appropriate time.

- 6.1.4 It was agreed to accept the report and the recommendations therein by general consensus.
- 6.1.5 It was agreed by general consensus that the Planning Committee be mandated to deal with this issue and the suggestions, proposals and recommendations that emerged from the debate.
- 6.1.6 It was agreed that the ad-hoc committee be disbanded.

The meeting adjourned for lunch at 13h00.

The meeting reconvened at 14h20.

6.2 Commission on the Delimitation/Demarcation of Regions:

- 6.2.1 The members of the Commission on Regions was welcomed. B Nomvete, one of the Co-Chairpersons, introduced the members. Apologies were noted on behalf of F Smit for non-attendance. Also present was the Technical Support Team.
- 6.2.2 It was noted that the purpose of the present meeting with the members of the Commission was to afford participants an opportunity to put questions of clarity to Commission members with regard to its report.
- 6.2.3 Questions of clarity were then put to the Commission.
- 6.2.4 The minority reports were noted by the Negotiating Council. It was noted that concerns expressed in the minority reports had been addressed during the meeting.
- 6.2.5 Several requests for copies of the working documents of and submissions received by the Commission were noted. It was agreed to request the Planning Committee to submit a recommendation to the Negotiating Council on the managing of the process with regard to the distribution of the said documents.
- 6.2.6 It was noted that the Report would be debated in the Negotiating Council on Monday 9 August 1993.
- 6.2.7 The Commission was thanked for its excellent work completed.

The meeting adjourned for tea at 16h45.

The meeting reconvened at 17h00.

6.3 Special Report on the Fifth Draft on the IBA:

6.3.1 The Technical Committee on the IMC was welcomed. Present were A Armstrong, D Dison, M Markowitz (Technical Support Person), C Noffke, P Pretorius and D van Zyl (State Legal Advisor). Apologies were noted from EJ Mabuza.

6.3.2 The Technical Committee gave a brief presentation on its report. It was noted that the Technical Committee had prepared a "draft agenda" to facilitate the Negotiating Council's debate on the Fifth Draft of the IBA Bill. The agenda contained the points of difference still to be resolved in the Negotiating Council and any clauses amended as per instruction from the Negotiating Council. It was noted that the Technical Committee was still in the process of drafting some of the clauses. These would be discussed at a future meeting of the Negotiating Council. It was agreed that the non-contentious clauses would not be raised again. Participants were requested to submit recommendations with regard to reformulations or drafting in writing to the Technical Committee.

6.3.3 The discussion and debate then proceeded along the lines of the "draft agenda" (see Addendum B).

6.3.4 Section One "Definitions" Refers:

It was agreed to defer discussion on this issue until the relevant political decisions had been taken.

6.3.5 Chapter Two "Primary Objects of Act" refers:

* It was agreed that the Technical Committee should incorporate the notion of religion in addition to culture in this Chapter.

* The insertion of sub-sections (6) and (7) as recommended by the Technical Committee was accepted.

6.3.6 Chapter Three "Independent Broadcasting Authority" refers:

* It was suggested that in section 3 (3), the following words should be inserted at the end of the last sentence "or any other political party" or alternatively there should be full stop after the word "indirectly".

- * It was noted that the appointment procedure as outlined in Schedule 1 was still being dealt with by the ad-hoc committee.
- * It was suggested that the Technical Committee should give consideration to the notion of two Co-Chairpersons with regard to section 4 (1).
- * It was noted that section 4 (2) had been amended according to the views and comments expressed in the Negotiating Council.
- * It was suggested that the word "under" in section 5 (1) (a) should be replaced by "in the service of".
- * It was suggested that the word "spouse" should be included in section 5 (1) (e).
- * It was noted that section 6 had been amended substantially to provide for staggered terms office and continuity on the Council. The new section made it impossible for any one political party to decide on the total composition of the Council. This was accepted by the Negotiating Council.
- * It was suggested that section 12 (a) be expanded to include the fact that bilateral agreements for the issuing and or renewal of broadcasting licences as well as signal distribution can actually be given to the Authority. This suggestion was made with regard to the TBVC States. It was agreed to hold this issue in abeyance as the ad-hoc committee on the TBVC States would address issues such as this and a political decision would have to be taken at some point in the future.

6.3.7

Chapter 4 "Committees, Appointment of Experts and Inquiries" refers:

- * It was noted that the South African Government had strong reservations with regard to suggested inquiries as referred to in sub-section (6) (a), (b) and (c). It was suggested that the Technical Committee submits the options/alternative suggestions to the Negotiating Council in this regard.
- * It was suggested that a provision should be included

under sub-section (6) which states that the IBA may appoint a tribunal of some sort to go into the issues and make a recommendation to the Council.

- * The Technical Committee was requested to prepare a preliminary document stating the options, alternatives, pros and cons on these issues at this point in time. It was noted that a political decision would still have to be taken by the Negotiating Council at a future meeting.
- * The Technical Committee was requested to reconsider the issue as to whether the inquiry should take place now or under the IBA.

6.3.8 Chapter 7 "Broadcasting Licences" refers:

- * It was noted that security was no longer required from applicants for broadcasting licences. This was accepted by the Negotiating Council.
- * It was noted that section 38 (13) was accepted by the Negotiating Council.
- * It was agreed to defer the issue of the problem of grandfathering public broadcaster which has been licensed in the TBVC States, until the issue of reincorporation had been dealt with by the Negotiating Council (sub-section 39 (3) refers).
- * It was agreed to defer the issue of the problem of grandfathering private broadcasters which has been licensed in the TBVC States, until the issue of reincorporation had been dealt with by the Negotiating Council (sub-section 40 (2) refers).
- * It was agreed that a uniform standard/test should be prescribed by the Authority to ascertain whether an applicant for a community broadcasting licence has the support of the relevant community.
- * With regard to the question of control (as referred to in section 42), the involvement of foreign persons, the control of private broadcasting licences and cross media control, the comments of the Technical Committee were noted and no in principle objections were raised.
- * It was noted that section 43 (6) was still under

discussion in the Technical Committee and if the issue could not be resolved, the Technical Committee would refer it back to the Negotiating Council.

- * It was suggested that section 43 (6) should not be a sub-section but standing on its own.
- * The limitation on cross-media control, section 44 refers: It was agreed to revisit this issue once the Technical Committee reports back to the Negotiating Council on whether it can take on the responsibility.
- * The Technical Committee's comments on section 45 were taken note of. The Technical Committee would report back to the Negotiating Council on this issue as soon as possible.
- * The new qualifying definition of South African music in section 48 was agreed to.
- * After discussion on section 49, it was agreed to leave the section as is. No objections were noted.
- * It was agreed that section 50 "Transfer of Licence" would also apply to any privatisation of public broadcasting services.

6.3.9 Chapter 10 "General Provisions" refers:

- * It was noted that in Section 70 "Regulations", the Technical Committee had empowered the Council to make regulations. This was accepted by the meeting.

6.3.10 The areas of the Bill which required more technically precise drafting were noted (see p6 of the Draft Agenda, Addendum B).

6.3.11 The Technical Committee was requested to clarify what the lifespan of existing broadcasters would be, i.e. either four, six or eight years.

6.3.12 Schedule 3 "Code of Conduct for Broadcasting Services" refers:

- * It was suggested that with regard sub-section 4 "Comment" (3), the sentence should end after the word "opinion".

- 6.3.13 The Technical Committee was thanked for work so far completed and for the draft agenda which facilitated the debate. Other Technical Committees were requested to take note of the facilitatory role that the draft agenda had played in the course of the debate.

7. Meetings Schedule and Draft Programme

- 7.1 It was noted that the 8th Report of the Technical Committee on Fundamental Human Rights during the Transition had been distributed to participants and was scheduled to be discussed on Wednesday 11 August 1993.
- 7.2 It was agreed to cancel the Negotiating Council meeting of 5 August 1993 as the discussion on the Draft Bill of the IBA had been completed and the Technical Committee on Constitutional Issues had requested more time to work on its next draft of the interim constitution. In the light of this there would be no business for the Negotiating Council to attend to.
- 7.3 It was noted that the Planning Committee was scheduled to meet from 09h30 to 13h00 on Monday 9 August 1993. In the course of its meeting the Planning Committee was meeting with representatives of the Local Government Negotiation Forum. A reportback was to be given to the Negotiating Council on Monday 9 August 1993 with regard to this meeting.
- 7.4 It was noted that the meeting of the Negotiating Council on Monday 9 August 1993 would commence at 13h00 and last until 19h00. Delegates were advised that lunch would be supplied between 12h00 and 13h00.
- 7.5 It was noted that the Planning Committee would report back to the Negotiating Council on Monday 9 August 1993 on the visit to the East Rand.
- 7.6 It was noted that the reports from the Technical Committee on Constitutional Issues, the TEC and its Sub-Councils and any other reports that were available at the time would be couriered to participants on Friday 6 August 1993. Participants were requested to contact the Administration if they had not received their documents by Saturday evening.

8. Closure

The meeting was closed at 18h45.

These minutes were ratified at the meeting of the Negotiating Council of 17 August 1993 and the amended version signed by the Chairperson of the original meeting on ...~~26/8/93~~.....



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CHAIRPERSON

Addendum A

The following delegates and advisers were present at the meeting of the Negotiating Council on Wednesday 4 August 1993:

PJ Gordhan : Chairperson
L Landers : Assistant to the Chairperson

Organisation	Delegates	Advisers
ANC	M Maharaj M Manzini	J Netshitenzhe T Botha
AVU	M Mentz C Kruger	R Horn
Bophuthatswana	R Cronje R Mangope	SG Mothibe BE Keikelame
Cape Trad. Leaders	GD Gwadiso SN Sigcau	DM Jongilanga
Ciskei	M Webb	TM Bulube
DP	C Eglin M Finnemore	PG Soal KM Andrew
Dikwankwetla	K Ngwenya	SOM Moji JSS Phatang
IFP		
IYP	NJ Mahlangu NS Mtsweni	AP Laka Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	GG Zama MS Gininda
Kwazulu		
Labour Party	D Lockey CC August	
NIC/TIC	R Adam	
NP	D de Villiers TJ King	L Wessels
NPP	A Rajbansi	O Gany J Bachchu

Trad. Leaders	M Moroke RH Mopeli	
PAC	P de Lille B Desai	ER Sibeko LS Makhanda
Solidarity	DS Rajah	P Naidoo T Palan
SACP	J Slovo L Jacobus	
SA Government	RP Meyer LR Brink	TJ Kruger
Transkei	Z Titus N Jajula	
TVL Trad. Leaders	LM Mokoena FF Kekana	MA Netshimbupfe NE Ngomane
UPF	MJ Mahlangu A Chabalala	J Maake
Venda	SE Moeti TJ Tshivhase	GM Ligege S Makhuvha
XPP	PT Shiluvana MH Matjokana	TB Shibambu

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

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 12h20 ON MONDAY 2 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 the following amendments:

- * Item 6.1 and 6.2 should be interchanged;
- * The addition of a new Item 6.1 to read "Violent Deaths of People on the East Rand". The subsequent numbering was accordingly amended.

4. Minutes

It was noted that the minutes of 27 July and 28 July 1993 would be distributed during the course of the day and be dealt with at the meeting of the Negotiating Council of 3 August 1993.

5. Reportback from the Planning Committee

5.1 It was noted that the Planning Committee had met with representatives of the National Economic Forum. It was noted that it had been suggested that an informal liaison committee be set up to facilitate contact between the two processes. This was agreed to.

5.2 It was noted that the Planning Committee recommended the addition of a

Traditional Leader to the Ad-Hoc Committee dealing with Fundamental Human Rights during the Transition. It was further recommended that the Traditional Leaders submit the name of an individual to Planning Committee for addition to the Ad-hoc Committee. This was agreed to. At a later stage in the meeting, the Traditional Leaders announced that GD Gwadiso would be their representative.

6. Substantive Issues

6.1 Violent Death of People in the East Rand:

- 6.1.1 A lengthy discussion and debate proceeded on this issue with participants expressing views.
- 6.1.2 An appeal was made to participants to not attack each other personally in the course of the discussion.
- 6.1.3 After discussion it was agreed to instruct the Planning Committee to:
- * Make recommendations on the proposal that a delegation consisting of Negotiating Council participants visit victims and the area of the violence;
 - * Recommend practical and effective measures of addressing violence. The suggestion of a joint-peace force was raised and received general support as one of the measures to be considered by the Planning Committee.

The meeting adjourned for lunch at 13h15.

The meeting reconvened at 14h55.

7. Reportback from the Planning Committee

- 7.1 It was noted that the Planning Committee had a range of outstanding matters as referred to it by the Negotiating Council to still deal with. The Planning Committee, therefore, proposed that the Negotiating Council meeting of 3 August 1993 commences at 08h30 until 14h00, with a tea break and lunch at 14h30 and then the Planning Committee meets from 14h00 to 19h30. This proposal was agreed to.
- 7.2 It was noted that the Reports of the Technical Committee's on Fundamental Human Rights during the Transition and the Draft Bills on the IBA and IMC would be dealt with at the Negotiating Council meeting of 3 August 1993.

- 7.3 It was noted that the issue of sufficient consensus would be dealt with at the Negotiating Council meeting of 4 August 1993.

8. **Commission on the Delimitation/Demarcation of Regions**

- 8.1 It was noted that when the report was tabled, no debate would take place. Opportunity would be provided for in the course of the week questions of clarity to be addressed the members of the Commission. Furthermore, the report would be fully debated and discussed during the course of the week commencing 9 August 1993 in the Negotiating Council without the Commission being present.
- 8.2 The Chairpersons of the Commission, B Nomvete and F Smit, were welcomed. The report was tabled and presented to the meeting.
- 8.3 On the completion of the presentation the Chairpersons, Commission Members (in their absence) and the Technical Secretary (R Mokate) were thanked for the work completed.
- 8.4 A draft statement on the occasion of the tabling of the Commission on the Delimitation/Demarcation of Regions, as prepared by the Planning Committee, was put before the meeting. Discussion followed. It was agreed to revisit this issue before the close of the day's business. All participants were requested to forward amendments to the draft statement to C Eglin.
- 8.5 Before the close of the meeting, the draft statement as amended was agreed to by general consensus (see Addendum B).
- 8.6 It was noted that the reference in the statement to a minority report is not an attack on any member of the Commission.

9. **Substantive Issues**

- 9.1 **The Seventh Progress Report of the Technical Committee on Fundamental Human Rights during the Transition:**
- 9.1.1 The Technical Committee on Fundamental Human Rights during the Transition was welcomed. Present was H Corder, LM du Plessis, G Grove, S Nene and Z Yacoob.
- 9.1.2 Discussion and debate continued on the seventh report, commencing with Item 2. During the course of the debate questions of clarity were put to the Technical Committee.
- 9.1.3 Item 2 "Equality" refers:

- * Concerns were raised with regard to Item 2 (2) by various Traditional Leaders. The following phrase was suggested by the Cape Traditional Leaders as a possible way of addressing its concerns:

"Every Traditional Community shall have the right to exist as such and to maintain and develop its distinct cultural characteristic and identity and to define its culture as a right. Every Traditional Community shall have the right to have its rules and customs accepted as binding by such communities. Membership of Traditional Communities shall be based on voluntary association provided that the authority of the Traditional Leader there, its own tradition and culture is not undermined."

It was suggested that all suggested amendments on this issue should be forwarded to the ad-hoc committee on Fundamental Human Rights during the Transition.

- * It was agreed that the Traditional Leaders should submit to the ad-hoc committee a report on the clauses they have concerns about, the clauses that they require cultural rights to be enumerated and the clauses which they require insulation from. Motivations for these requirements would be helpful to the process.
- * The Cape Traditional Leaders and the Transvaal Traditional Leaders reserved its position on this item.
- * It was noted that the Traditional Leaders had nominated GD Gwadiso as its representative on the ad-hoc committee dealing with Fundamental Human Rights during the Transition.
- * It was suggested that the word "sex" should be inserted after the word "gender" in Item 2 (2).
- * It was suggested that the word "rational" or "reasonable" should be inserted after the word "permit" in Item 2 (3). Various participants did not support this view. The proposer of this amendment, the DP, was after discussion requested to withdraw the amendment. The DP stated that it reserved its position on withdrawing the amendment.
- * The Technical Committee suggested that Item 2 (4) be reformulated to read as follows:

"Notwithstanding section 30, sub-section 4, prima facie proof

of discrimination shall be presumed to be sufficient proof of unfair discrimination contemplated in sub-section 2, until the contrary is established."

It was agreed that the Technical Committee should reformulate this item.

9.1.4 Item 3 "Life" refers:

- * No comments were noted. The item was accepted by the meeting as is.

The meeting adjourned for tea at 16h35.

The meeting reconvened at 16h55.

9.1.5 Item 4 "Human Dignity" refers:

- * It was suggested that the words "personal integrity and" be inserted after the word "her".

9.1.6 Item 5 "Freedom and Security of the Person" refers:

- * It was suggested that the words "but not be limited to" be inserted after the word "include" in Item 5 (1).
- * It was suggested that the principle against arbitrary arrest should be catered for in Item 5 (1).
- * It was suggested that the words "or inappropriate" should be inserted after the word "degrading".
- * It was suggested that provision should be made under this item for a prohibition with regard to medical experimentation and scientific research on people. Submissions were requested from participants in this regard.

9.1.7 Item 6 "Servitude and Forced Labour" refers:

- * No comments were noted. The item was accepted by the meeting as is.

9.1.8 Item 7 "Privacy" refers:

- * No comments were noted. The item was accepted by the

meeting as is.

9.1.9 Item 8 "Religion and Belief" refers:

- * No comments were noted. The item was accepted by the meeting as is.

9.1.10 Item 9 "Freedom of Expression" refers:

- * No comments were noted. The item was accepted by the meeting as is.
- * No agreement could be reached on the proposed sub-clause of this item and this issue would be further debated in the Negotiating Council.

9.1.11 Item 10 "Assembly, Demonstration and Petition" refers:

- * No comments were noted. The item was accepted by the meeting as is.

9.1.12 Item 11 "Freedom of Association" refers:

- * It was suggested that Item 11 (1) should be subject to the equality clause.
- * It was suggested that the words "or sex" should be inserted after the word "race" in Item 11 (2).
- * It was suggested that the words "Nothing in this section shall preclude legislation preventing discrimination on the grounds of race and sex" should be included in the formulation of Item 11 (2).
- * It was suggested that no cross-referencing should occur in this item.
- * After discussion it was agreed to refer this item to the ad-hoc committee, taking into account the views expressed in the meeting.

9.1.13 Item 12 "Freedom of Movement" refers:

- * It was noted that the PAC would make a submission on a proposed reformulation of this item to the Technical Committee.

- * It was suggested that Item 13 should form a sub-section of Item 12.
 - * It was suggested that the right of every person to leave South Africa should be catered for under Item 12.
 - * It was suggested that the right of every citizen to remain in and leave South Africa should be catered for under Item 12 and not under Item 14.
- 9.1.14 Item 13 "Residence" refers:
- * No comments were noted under this item other than as referred to in Item 9.1.13 above.
- 9.1.15 Item 14 "Citizens Rights" refers:
- * No comments were noted under this item other than those referred to in Item 9.1.13 above.
- 9.1.16 Item 15 "Political Rights" refers:
- * It was suggested that the words "by secret ballot" should be accommodated in Item 15 (2).
- 9.1.17 Item 16 "Access to Court" refers:
- * It was suggested that this item was not necessary.
- 9.1.18 Item 17 "Access to Information" refers:
- * It was suggested that a qualification was necessary for this clause as to who would decide whether the access to the information was necessary.
 - * Discussion followed on issue of verticality and horizontality with regard to this item. It was agreed to refer this item to the ad-hoc committee for consideration, taking into account views expressed in the meeting. Submissions should be made to the ad-hoc committee on this issue. The ad-hoc committee should also consider the question of complete openness or limitation with regard to this item.
- 9.1.19 Item 18 "Administrative Decisions" refers:
- * It was suggested that the words "and proportionately"

be inserted after the word "procedurally" in Item 18 (1).

- * Lengthy debate occurred around Item 18 (1) and also around the proposed inclusion of the word "reasonable" in the formulation, after which it was agreed to refer this item to the ad-hoc committee for attention, taking into account the debate and views expressed in the meeting.

9.1.19 Item 19 "Detained, Arrested and Accused Persons" refers:

- * It was suggested that the words "including every sentenced prisoner" should be deleted in Item (1) as it was superfluous.
- * It was suggested that an Item 19 (1) (e) should be added to read "That compensation should be awarded, or be capable of being awarded, in the event of an unlawful detention."
- * Although the ad-hoc recommended that the right to vote should not be included in this Item, various participants were still of the view that it should be. Other participants were of the view that this should be provided for in the Electoral Act. It was further suggested that this concern could be catered for by adding a phrase such as "No sentenced persons shall have her/his civil rights removed unless it was strictly necessary for the proper carrying out of the punishment."
- * It was suggested that access to media and educational facilities should be catered for in Item 19 (1) (b).
- * It was suggested that the word "partner" should be inserted after the word "spouse" in Item 19 (1) (d).
- * It was suggested that the following phrase should be catered for in this item under Item 19 (1):

"Every person who is detained or arrested shall have the right to challenge the validity of his/her detention in person in a court of law and to be released if such detention is declared to be unlawful".
- * It was suggested that, because of agreement in the

Negotiating Council on the need for habeas corpus, provision should be made for other categories of detainees too.

- * The PAC noted that it would be making a submission to the Technical Committee with regard to this item.
- * It was suggested that under 19 (3) the right of a child to be dealt with in such a way so as to take into account the age of the child, should be catered for.
- * The Technical Committee was requested to consider the right of persons to a legal practitioner at all times under Item 19 (3).

9.1.20 Due to time constraints the debate was curtailed at Item 19. It was noted that the debate would resume around Item 20 in the next meeting of the Negotiating Council.

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

10. Closure

- 10.1 It was noted that the meeting of the Negotiating Council would commence at 08h30 until 14h00 on Tuesday 3 August 1993.
- 10.2 It was noted that the Planning Committee would then meet from 14h00 on Tuesday 3 August 1993.
- 10.3 It was noted that the Report of the Technical Committee on Fundamental Human Rights during the Transition and the Draft Bill on the IMC would be discussed at the Negotiating Council meeting of 3 August 1993.
- 10.4 It was noted that the Draft Bill on the IBA would be discussed at the Negotiating Council meeting of 4 August 1993.
- 10.5 The Chairperson was thanked for the way the day's proceedings were handled.
- 10.6 The meeting adjourned at 19h00.

These minutes were ratified at the meeting of the Negotiating Council of 10 August 1993 and the amended version signed by the Chairperson of the original meeting on ... *11 August 1993*

R. Long
.....
CHAIRPERSON

Addendum A

The following delegates and advisers were present at the meeting of the Negotiating Council on Monday 2 August 1993:

R Cronje : Chairperson
 MJ Mahlangu : Assistant to the Chairperson

Organisation	Delegates	Advisers
ANC	C Ramaphosa M Manzini	B Mabandla PM Maduna
AVU	M Mentz C Kruger	D van der Berg AJJ van Rensburg
Bophuthatswana	R Cronje R Mangope	SG Mothibe BE Keikelame
Cape Trad. Leaders	M Nonkonyana SN Sigcau	GD Gwadiso DM Jongilanga
Ciskei	M Webb VT Gqiba	TM Bulube
DP	C Eglin M Finnemore	K Andrew AJ Leon
Dikwankwetla	K Ngwenya	SOM Moji JSS Phatang
IFP		
IYP	NJ Mahlangu NS Mtsweni	AP Laka Q Vilankulu
KP		
INM	ND Mokoena SS Ripinga	GG Zama MS Gininda
Kwazulu		
Labour Party	L Landers CC August	MA Hendrickse MYK Bassier
NIC/TIC	PJ Gordhan E Gandhi	K Mayet C Saloojee
NP	D de Villiers TJ King	SJ Schoeman L Wessels
NPP	A Rajbansi	H Pithamban S Naidoo

● Trad. Leaders

PAC

Solidarity

SACP

SA Government

Transkei

TVL Trad. Leaders

UPF

Venda

XPP

MB Mota

P de Lille
B Alexander

T Palan

J Slovo
L Jacobus

RP Meyer
LR Brink

Z Titus
N Jajula

LM Mokoena
FF Kekana

MJ Mahlangu
A Chabalala

SE Moeti
TJ Tshivhase

PT Shiluvana
MH Matjokana

RH Mopeli

B Desai
R Sizani

AS Razak

H Cheadle

JT Delpont
DPA Schutte

MA Netshimbupfe
NE Ngomane

J Maake

GM Ligege
S Makhuvha

TB Shibambu
GNK Hetisani

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

**STATEMENT BY THE NEGOTIATING COUNCIL
ON THE OCCASION OF THE TABLING OF THE
COMMISSION ON THE DELIMITATION/DEMARCATIION OF REGIONS
MONDAY 2 AUGUST 1993**

The Negotiating Council appointed a Commission on the Demarcation/Delimitation of Regions on May 28, 1993. The Commission commenced its work on June 8, 1993, with the instructions to table its report to the Negotiating Council in six weeks time.

We would like to take this opportunity to thank the Commission and the Co-Chairpersons in particular for undertaking and fulfilling this immense and crucial task which is integral to resolving the problems of transforming a South Africa from its current order to a democratic one.

The Commission was required to make recommendations on the demarcation/delimitation of SPR's in South Africa, realising that regional boundaries will be relevant to the electoral process, as well as to the structures of the constitution.

As the Commission report notes, the question of demarcation/delimitation of regions is a complex one. "The unique circumstances of various countries make it very difficult, if not virtually impossible, to formulate rigid and fixed norms and principles upon which the demarcation of regions should be based South Africa (also) has to approach the process of demarcation with its own particular circumstances in mind and apply international lessons creatively to local problems." (p10)

The Commission report provides a valuable point of departure which we believe will enable participants in the negotiating process to address the question of demarcation/delimitation of regions in a concrete and constructive manner. Without doubt, participants in the Negotiating Council will have their own views about this matter. We believe that the report will facilitate structured discussion and enable decisions which would move the negotiation process to arrive at a negotiated settlement.

The Negotiating Council is pleased by the ability of the wide cross-section of competent and diligent South Africans, to execute the brief of this Council within the strenuous time frame. In particular, we place on record our fullest confidence in the professionalism and integrity of the Commission members and of their technical staff.

The Negotiating Council notes that the Commission's report includes two minority reports, as well as the comment of the Commission on these minority reports. It is unfortunate that one of these reports disagrees with the Terms of Reference as decided by the Negotiating Council and with the process adopted by the Commission itself.

With the view to expediting a negotiated resolution of the conflict in South Africa, we urge participants and the public to focus their attention on the specific recommendations contained in the Commission's report.

With the tabling.....

With the tabling of the report at the Negotiating Council, this report now becomes available for public comment and provides a vital foundation for discussion on and conclusion of this important element of the Constitutional Process. We are confident that participants will now be able to address the recommendations in a constructive and positive manner that enables the process to resolve with optimal consensus a vital aspect of the regional question.