

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 13h15 ON WEDNESDAY 20 OCTOBER 1993 AT THE WORLD TRADE CENTRE

PRESENT: See Addendum A

1. Moment of Prayer/Meditation

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

2. Welcome and Attendance

The participants were welcomed.

3. Ratification of the Agenda

The agenda was ratified with no amendments.

4. Minutes

4.1 Ratification of the minutes:

4.1.1 The minutes of the meeting of 5 October 1993 were ratified with the following amendments:

* Item 6.9, the ninth asterisk refers : The following sentence should be inserted after the second sentence "It was also suggested that one name could appear on more than one list, i.e. the national list and a regional list."

* It was noted that an Addendum had been omitted from the minutes. The minutes would, therefore, be redistributed to participants.

4.1.2 The minutes of the meeting of 6 October 1993 were ratified with no amendments.

4.2 No matters arising were noted out of the minutes of the meeting of 5 October

1993 and 6 October 1993.

- 4.3 The Planning Committee minutes of the meeting of 23 August 1993 through to 26 August 1993 and 30 August 1993 were distributed for noting by the Negotiating Council.

5. Substantive Issues

5.1 The Second Version of the Draft Electoral Bill by the Technical Committee on the Electoral Bill:

5.1.1 The Technical Committee on the IEC was welcomed. Present were J Bruwer (state law adviser), D Davis, SK Ndlovu, RB Rosenthal and F Ginwala. Apologies were noted from HR Laubscher. Discussion proceeded on the report. Questions of clarity were put to the Technical Committee during the course of the debate.

5.1.2 Clause 19 "Registration for purposes of election" refers:

- * It was suggested that provision should be made for parties to register at any time and that only registered parties could participate in the election.
- * It was suggested that provision should be made for a transitional arrangement for the interim period, i.e. from the present election to the next election.
- * Various participants supported the clause as formulated.

5.1.3 Clause 20 "Application for registration for purposes of election" refers:

- * No comments were noted on clause 20 (1).
- * It was suggested that clause 20 (2) (a) should state clearly that the word signature includes the making of a cross.
- * With regard to clause 20 (2) (a), it was suggested that the Technical Committee should consider a R500 deposit for every name on the national list, subject to the total deposit not being more than R25 000. Various participants did not support this suggestion and supported the view of the Technical Committee.

- * With regard to clause 20 (2) (a) it was suggested that the Act should specify what needs to be provided and only matters concerning minor detail or that are impossible to predict in advance should be left to the IEC to make regulations about. Furthermore, in respect of the list referred to, the minimum requirement of the people who sign should be that their full names, full addresses, identity numbers, as well as their signatures were provided for.
- * It was suggested that the reference to a list of signatures in clause 20 (2) (a) should be deleted. Furthermore, that reference should only be made to the deposit.
- * With regard to clause 20 (2) (b), it was suggested that "ordinarily resident" should be defined as per the definition of the Technical Committee on Constitutional Issues. It was agreed that the Technical Committee on the Independent Electoral Commission should liaise with the Technical Committee on Constitutional Issues in this regard.
- * No comments were noted on clause 20 (3) (a).
- * No comments were noted on clause 20 (3) (b).
- * With regard to clause 20 (3) (c), it was suggested that clarity should be provided for in the Act on what the colour of the photograph of the leader should be. It was suggested that the photograph should be in colour.
- * With regard to clause 20 (3) (c), it was suggested that details requested for the application form should also be contained in the ballot form.
- * With regard to clause 20 (3) (c), it was suggested that regulations with regard to the replacing and upgrading of the photograph of leaders should be provided for.
- * No comments were noted on clause 20 (3) (d).
- * No comments were noted on clause 20 (3) (e).
- * No comments were noted on clause 20 (3) (f).
- * With regard to clause 20 (3) (g) it was suggested that the reference to the regional election agents should be

deleted. The Technical Committee did not support this view.

- * With regard to clause 20 (4), it was suggested that a clearer understanding of what is meant by an alliance or an informal electoral arrangement was needed. The Technical Committee was requested to reconsider this clause, taking into account the debate in the Council.
- * The Technical Committee was requested to reconsider clause 20 (5), taking into account the debate and concerns raised in the Negotiating Council. Furthermore, it should reconsider the definition of "party" in this regard.
- * With regard to clause 20 (6), it was suggested that the period referred to should be within three days.
- * No comments were noted on clause 29 (7).
- * No comments were noted on clause 29 (8).
- * With regard to clause (9) (a) (i) it was suggested that it should be specified in the clause that the logo of the ANC was excluded from this clause. Discussion followed. It was agreed that this clause did not necessarily mean that the logo of the ANC was in question but it was noted that a possible problem could develop in terms of interpretation of the Act. The Technical Committee was, therefore, requested to reconsider this clause in the light of the concerns raised in the Negotiating Council.
- * No comments were noted on clause 29 (9) (a) (ii).
- * No comments were noted on clause 29 (9) (a) (iii).
- * No comments were noted on clause 29 (9) (b).
- * No comments were noted on clause 29 (9) (b) (i).
- * No comments were noted on clause 29 (9) (b) (ii).
- * No comments were noted on clause 29 (9) (b) (ii) (aa).
- * No comments were noted on clause 29 (9) (b) (ii) (bb).

- * With regard to clause 29 (10), it was suggested that the 10 day period should be reduced.
- * No comments were noted on clause 29 (11).
- * No comments were noted on clause 29 (12).
- * No comments were noted on clause 29 (13).

5.1.4 Clause 21 "Notice of registration in Gazette" refers:

- * With regard to clause 21, the opening paragraph, it was suggested that a few days should be provided for.
- * No comments were noted on clause 21 (a).
- * With regard to the issue of the designated colours referred to clause 21 (b), it was suggested that clarity was necessary as to whether the colours would be provided for by way of a description or an indication. It was therefore suggested that the Technical Committee should reconsider this clause.
- * No comments were noted on clause 21 (c).
- * It was noted that the reference to the relevant section in clause 21 (d) should read "section 20 (10)".

5.1.5 Clause 22 "Determination of voting day and hours of voting" refers:

- * It was suggested that the day of voting should be declared a public holiday. Furthermore, if the voting period was over two days at least one of the days should be a public holiday.
- * Lengthy discussion proceeded on the number of voting days and the hours of voting. It was agreed to refer this issue to the Ad-Hoc Committee for its attention taking into account the debate and discussion in the Negotiating Council. The Planning Committee was requested to set a deadline for the completion of the work of the Ad-Hoc Committee.

5.1.6 Clause 23 "Submission of lists of candidates to Chief Director" refers:

- * With regard to clause 23 (1), it was suggested that the Technical Committee should consider the implications of the need to submit lists within fourteen days of the publication of the proclamation referred to. It was noted that the Technical Committee would reconsider this clause taking into account the views expressed in the Negotiating Council.
- * No comments were noted on clause 23 (2).
- * With regard to clause 23 (3), it was suggested that the required declaration(s) and acceptance of nomination should be done on a prescribed form.
- * No comments were noted on clause 23 (4).
- * With regard to clause 23 (5) (a), it was suggested that consideration should be given to the restriction of a person to one party for a particular legislative body, but the said person may appear on one party's list for one legislative body and on another party's list for another legislative body. Other participants did not agree with this view.
- * It was noted that a meeting would take place between this Technical Committee and the Technical Committee on Constitutional Issues with particular reference to Chapter 9 and to the issue of one or more ballot papers. It was agreed to defer further discussion on clause 23 (5) (a) until the said meeting had taken place and a report in this regard had been received by Council.
- * With regard to clause 23 (5) (b), it was suggested that it should be made clearer that a candidate could be on a national list, a regional list or on both lists. The clause as presently formulated implied that a candidate could not be on a national list and a regional list. Furthermore, there should be a second dual category for persons who would like to be on a regional list for Parliament as well as a regional list for the regional legislature and for persons who wanted to be on one list only. It was noted that the Technical Committee would reconsider this clause.
- * With regard to clause 23 (6), it was suggested that the candidates referred to should be consulted.

- * No comments were noted on clause 23 (7).

5.1.5

Clause 24 "Publication of lists of candidates" refers:

- * No comments were noted on clause 24 (1).
- * No comments were noted on clause 24 (1) (a).
- * No comments were noted on clause 24 (1) (b).
- * No comments were noted on clause 24 (2) (a).
- * With regard to clause 24 (2) (b), it was noted that the clause would be amended by the Technical Committee to state that publication would also take place in other media.
- * No comments were noted on clause 24 (3).
- * No comments were noted on clause 24 (4).

5.1.6

Clause 25 "Voting Stations" refers:

- * No comments were noted on clause 25 (1).
- * With regard to clause 25 (2), it was suggested that voting should be prohibited at places of employment.
- * With regard to clause 25 (3), it was suggested that it should be clearly stated in the Act what was prohibited within the 300 metres. It was further suggested that the discretion of the presiding officer should be circumscribed. Furthermore, there should be a clear definition of a voting station. It was noted that the Technical Committee would reconsider this clause taking into account the debate and discussion in the Negotiating Council.
- * With regard clause 25 (4), it was suggested that, in addition to the Gazette, the widest possible publicity should be given in respect of the location of voting stations.
- * With regard to clause 25 (4), it was suggested that provision for the addition of further voting stations at a later stage should be provided for.

- * With regard to clause 25 (5), it was suggested that the word "may" should read "shall".
- * With regard to clause 25 (6), it was suggested that it should be deleted. Other participants did not support this view.
- * With regard to clause 25 (7), it was suggested that the mobile voter station would be treated in the same manner as other voting stations and would be under the control of the electoral officer. Furthermore, the provisions that apply in respect of an ordinary voting station should apply to the mobile voting stations. It was noted that the Technical Committee would amend this clause accordingly taking into account the debate and views expressed in the Negotiating Council.
- * With regard to clause 25 (8), it was noted that, as the clause was presently drafted, the presiding officer had a right to enter any land or building with a mobile voting station.

5.1.7 Clause 26 "Foreign voting stations" refers:

- * With regard to clause 26 (1), it was suggested that there should be no distinction between travellers within the country, travellers outside the country and workers who are working away from where they are ordinarily resident. The right to vote should be extended to every voter.
- * With regard to clause 26 (1), it was suggested that the establishment of the voting stations should be done in consultation with various political parties. Various participants did not agree with this view. It was further suggested that consultation with political parties should only occur in cases/countries where no South African Embassy or South African Mission was present.
- * With regard to clause 26 (1), it was suggested that the words "one or more" should be deleted.
- * With regard to clause 26 (1), it was suggested that a definition of "temporarily outside the Republic" should be included.
- * With regard to clause 26 (2), it was suggested that it

should be defined when voting was going to take place. Furthermore, the Act should make provision with regard to how control was going to be exercised over foreign voting.

- * It was agreed to address the issue of where a vote cast should be counted when clause 32 was dealt with. It was noted that the Technical Committee required guidance from the Negotiating Council on this issue.

5.1.8 Clause 27 "Supplying of voting materials" refers:

- * No comments were noted on clause 27 (1).
- * No comments were noted on clause 27 (2).

5.1.9 Clause 28 "Voting compartment and ballot box" refers:

- * No comments were noted on clause 28.

5.1.10 Clause 29 "Ballot box":

- * No comments were noted on clause 29 (1) (a)
- * With regard to clause 29 (1) (b), it was noted that there was provision for the election agent to provide his own seal for the ballot box.
- * With regard to clause 29 (1) (c), it was agreed that parties should be allowed to place their seals on the boxes at the outset. The clause would be amended accordingly.
- * No comments were noted on clause 29 (2).
- * No comments were noted on clause 29 (3).
- * No comments were noted on clause 29 (4).
- * No comments were noted on clause 29 (5).
- * With regard to clause 29 (6), it was agreed that this clause should make provision for the Commission to prescribe where the safe-keeping of ballot boxes should occur. It was noted that the Technical Committee would redraft accordingly.

- * No comments were noted on clause 29 (7).

5.1.11 Clause 30 " Ballot paper" refers:

- * With regard to clause 30 (1), it was suggested that it should not be left to the discretion of Commission to decide whether the colours and the photograph of the leader should be on the ballot paper as there should be certainty beforehand. Furthermore, the colours and the photograph of the leader should be on the ballot paper.
- * The Labour Party noted its objection to the photograph of the party leader appearing on the ballot paper.
- * It was suggested that the format of the ballot paper should be contained in a schedule of this Bill.
- * It was noted that a specimen ballot paper would be distributed to participants on Friday 22 October 1993.
- * The question of whether there was going to be a single ballot paper or not was raised. It was noted that in the Explanatory Memorandum of the Technical Committee (see Addendum B, Item 12), three options with regard to this issue was suggested. Discussion proceeded on the three options. After discussion it was agreed to refer the whole issue of Ballot Papers to the Ad-Hoc Committee for its attention taking into account the debate and discussion in the Negotiating Council. Liaison should occur with the Technical Committee on this issue. It was suggested that the Ad-Hoc Committee should consider the issuing of voters cards only to people who did not have identity documents and to people who require their vote to be counted in a different region from where they had voted. It was agreed to curtail debate on this issue and any further issues should be forwarded to the Planning Committee for referral to the Ad-Hoc Committee.

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

The meeting adjourned for tea at 17h15.

The meeting reconvened at 18h15.

5.2 Commission on National Symbols:

- 5.2.1 The members of the Commission were welcomed. Present were E Botha (Chairperson), PGP Maluleka (Vice-Chairperson), FG Brownell, L Gilfillan, F Meer, C Pama, CJ Reinecke and T Sirayi. Apologies were noted from B Jardine, P Kapp, RN Mlonzi and M Xulu. The report of the Commission was tabled. The Commission proceeded to present its report to the Council.
- 5.2.2 Questions of clarity were put to the Commission. It was noted that the report would be debated and discussed in the Negotiating Council meeting of 21 October 1993.
- 5.2.3 The Commission was complimented and thanked for its excellent work.

6. Planning Committee Reportback

6.1 Proposed Ad-Hoc Committee on the Draft Electoral Bill:

- 6.1.1 The recommendation of the Planning Committee was agreed to (see Addendum C).
- 6.1.2 The Ad-Hoc Committee was urged to deal with its work expeditiously. It was suggested that the first meeting of the Ad-Hoc Committee should be scheduled for 21 October 1993. It was agreed that the Ad-Hoc Committee should submit its first report not later than 26 October 1993.
- 6.1.3 It was agreed that GNK Hetisani should be the Convenor.
- 6.1.4 It was agreed that as soon as an issue had been dealt with and finalised by the Ad-Hoc Committee, the results thereof should be forwarded to the Technical Committee on the Independent Electoral Commission for drafting.

6.2 Ad-Hoc Committees dealing with the Delimitation/Demarcation of Regions:

- 6.2.1 The recommendation of the Planning Committee, as amended, was agreed to (see Addendum D).
- 6.2.2 With regard to the western border of the Eastern Cape, it was agreed that the convenors of the Ad-Hoc Committees on Kwazulu Natal/Eastern Cape and Western Cape, Northern Cape, North West and OFS should meet jointly to deal with this specific issue. The

Convenors of the Ad-Hoc Committees were requested to maintain flexibility.

6.2.3 It was agreed that all members of the Ad-Hoc Committees would meet briefly during lunch time on Thursday 21 October 1993 to nominate their convenors and to decide on their meetings schedule.

6.3 Technical Committee on Fundamental Rights during the Transition:

It was noted this item was still receiving attention in the Planning Committee and a report would be submitted at a later stage. It was further noted that the question of time frames had been highlighted to the Ad-Hoc Committee and the Technical Committee.

6.4 Traditional Leaders:

It was noted that a report dealing with the position of the Traditional Leaders had been distributed to the Planning Committee. It was noted that the Planning Committee was scheduled to meet on Thursday 21 October 1993 at 09h00 with a view to finalising this issue. A report in this regard would be given to the Negotiating Council with regard to the constitutional proposals of the Traditional Leaders.

6.5 S.A.D.F. Raid into the Transkei:

It was noted that this issue was still under discussion between representatives of the PAC, the South African Government and the Transkeian Government. A report would be given to the Negotiating Council from the Planning Committee on Thursday 21 October 1993.

6.6 The AVU Issue:

It was noted that this issue was still under discussion in the Planning Committee and had not yet been resolved.

7. Meetings Schedule and Draft Programme

7.1 It was noted that the Planning Committee would finalise the meetings schedule and draft programme at its meeting of 21 October 1993. A report in this regard would be given to the Negotiating Council on 21 October 1993.

7.2 It was, however, noted that the Negotiating Council meeting of Thursday 21 October 1993 would commence at 10h00.

7.3 It was noted that the draft agenda for the Negotiating Council meeting of Thursday 21 October 1993 had been distributed (see Addendum E).

8. **Closure**

The meeting adjourned at 20h15.

These minutes were ratified at the meeting of the Negotiating Council of 28 October 1993 and the amended version signed by the Chairperson of the original meeting on1/11/93.....


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CHAIRPERSON

The following delegates and advisers were present at the meeting of the Negotiating Council on Wednesday 20 October 1993:

B Kgositsile : Chairperson
 MJ Mahlangu : Assistant Chairperson

Organisation	Delegates	Advisers
ANC	P Molefe N Mokonyane	M Manzini
AVU	C Kruger	AJ Horn
Bophuthatswana		
Cape Trad. Leaders	M Nonkonyana	GD Gwadiso SM Burns-Ncamoshe
Ciskei		
DP	KM Andrew D Smuts	
Dikwankwetla	JSS Phatang MC Noge	K Ngwenya
IFP		
IYP	NJ Mahlangu	AP Laka Q Vilankulu
KP		
INM	SS Ripinga ND Mokoena	KK Mahlaba GG Zama
Kwazulu		
Labour Party	MJ Windvogel L Landers	PAC Hendrickse
NIC/TIC	PJ Gordhan PS Govender	K Mayet C Saloojee
NP	OAW van Zyl TJ King	
NPP	A Rajbansi	DM Govender ME Ally
OFS Trad. Leaders	MB Mota M Moroke	



PAC	B Alexander P de Lille	ER Sibeko
Solidarity	DS Rajah	N Singh
SACP	J Slovo L Jacobus	E Pahad
SA Government	DPA Schutte LR Brink	AF Tredoux
Transkei	Z Titus N Jajula	R Nogumla
TVL Trad. Leaders	LM Mokoena MA Netshimbupfe	NE Ngomane
UPF	A Chabalala RJ Dombo	MJ Mahlangu J Maake
Venda	NE Mulaudzi	S Makhuvha GM Ligege
XPP	GNK Hetisani	PT Shilubana

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