

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

**MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 11h30 ON THURSDAY 7 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**

The minutes of the meeting of 28 September 1993 were distributed for ratification at the next meeting of the Negotiating Council.

**5. Substantive Issues**

**5.1 10th Progress Report of the Technical Committee on Fundamental Rights during the Transition:**

- 5.1.1 The Technical Committee on Fundamental Rights during the Transition was welcomed. Present were H Corder, LM du Plessis, G Grove, S Nene and Z Yacoob. It was agreed that the meeting would not revisit clauses previously agreed to. Only clauses not previously agreed to or clauses with minor reformulations were dealt with. The Technical Committee proceeded to present its report to the meeting clause by clause. Discussion and debate proceeded on each clause after it was introduced by the Technical Committee.

- 5.1.2 Clause 7 "Application" refers:
- \* The clause as formulated was agreed to.
- 5.1.3 Clause 8 "Equality" refers:
- \* Clause 8 (1) as formulated was agreed to.
  - \* It was noted that clause 8 (2) as formulated was agreed to with a qualification and concern expressed by the South African Government with regard to sexual orientation. Furthermore, as the point raised by the South African Government was of a legal and technical nature, it could be discussed by the Technical Committee taking into account the discussion in the Council. The Technical Committee would advise the Negotiating Council in this regard at a future meeting.
  - \* It was suggested that the word "reasonable" should be inserted after the words "not preclude" in clause 8 (3). This was not agreed to.
  - \* Clause 8 (3) as formulated was agreed to. The DP reserved its position.
  - \* Clause 8 (4) as formulated was agreed to.
- 5.1.4 Clause 14 "Religion, Belief and Opinion" refers:
- \* The clause as formulated was agreed to.

The meeting adjourned for lunch at 13h30.

The meeting reconvened at 14h30.

- 5.1.5 Clause 13 "Privacy" refers:
- \* The clause as formulated was agreed to.
- 5.1.6 Clause 17 "Freedom of Association" refers:
- \* The clause as formulated was agreed to.
- 5.1.7 Clause 21 "Political Rights" refers:

- \* The clause as formulated was agreed to.
- 5.1.8 Clause 23 "Access to Information" refers:
  - \* The clause as formulated was agreed to.
- 5.1.9 Clause 25 "Detained, Arrested and Accused Persons" refers:
  - \* The clause as formulated was agreed to.
- 5.1.10 Clause 26 (2) "The specific limitation to 26 (1)" refers:
  - \* The clause as formulated was agreed to.
  - \* The whole of clause 26 as formulated was agreed to.
- 5.1.11 Clause 29 "Environment" refers:
  - \* The clause as formulated was agreed to.
- 5.1.12 Clause 33 "Education" refers:
  - \* The clause as formulated was agreed to.
  - \* It was suggested that the following should be added to form a new sub-clause (d) : "Subject to section 8 (3), to equal state financial assistance in the exercise of his or her rights in terms of this section". It was agreed that this suggestion should be dealt with by the ad-hoc committee.
- 5.1.13 Clause 15 "Freedom of Expression" refers:
  - \* Clause 15 (1) as formulated was agreed to.
  - \* It was suggested that clause 15 (2) did not cater for objectivity and impartiality. The Technical Committee noted that it would consider this issue. The clause was agreed to with this qualification.
- 5.1.14 Clause 24 "Administrative Justice" refers:
  - \* The principle of the clause was agreed to. It was noted that the legal terminology may have to be amended.
- 5.1.15 Clause 28 "Property" refers:

- \* It was noted that this clause was still under discussion in the Ad-Hoc Committee and the Technical Committee and would be dealt with at a future meeting of the Negotiating Council.
- 5.1.16      Clause 30 "Children" refers:
- \* This clause was agreed to as formulated.
- 5.1.17      Clause 32 "Customary Law" refers:
- \* It was noted that an amendment was proposed by the Traditional leaders (see Addendum B). It was agreed to refer the amendment to the Ad-Hoc Committee for its attention and liaison with the Technical Committee. It was further agreed to return to this clause at a future meeting of the Negotiating Council.
- 5.1.18      Clause 34 "Limitation" refers:
- \* The clause as formulated was agreed to.
- 5.1.19      Clause 35 "Suspension" refers:
- \* It was noted that the PAC was concerned about the provisions catered for in clause 35 (2) (b) with regard to the time period and, therefore, reserved its position on the whole of clause 35.
  - \* The clause as formulated was agreed to.
- 5.1.20      Clause 36 "Interpretation" refers:
- \* The Cape Traditional Leaders expressed concerns with regard to clause 36 (1).
  - \* The clause as formulated was agreed to with the exception of the following two outstanding issues:
    - The Technical Committee and the Ad-Hoc Committee are to consider whether clause 31 should be included in clause 36 (2) (a);

- The Technical Committee is to consider the suggestion that the word "appropriate" be replaced by the word "applicable" in clause 36 (1).

5.1.21 Paragraph 1.4 of the introductory memorandum:

- \* It was agreed to refer this issue to the Technical Committee on Constitutional Issues for its attention and a recommendation on how to deal with this issue.

5.1.22 It was agreed that RK Sizani of the PAC should join the Ad-Hoc Committee.

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

**5.2 Draft Resolution from the Planning Committee with regard to the earthquake disaster in India:**

5.2.1 The Draft Resolution was agreed to by the Negotiating Council by general consensus (see Addendum C).

5.2.2 It was noted that the condolences and sympathies of the South African Government and the people of the country as a whole had been conveyed. It was further noted that the South African Government would report back to the Council with regard to the provisions contained in the resolution.

**6. Procedural Issues**

It was agreed that a detailed agenda dealing with the issues to be discussed by the Negotiating Council with regard to constitutional issues should be distributed to all participants on Monday 11 October 1993. This should be done in consultation with the convenor of the Technical Committee on Constitutional Issues.

**7. Administrative and Financial Matters**

A report dealing with upgraded security arrangements was distributed to participants (see Addendum D).

8. **Meetings Schedule and Draft Programme**

The meetings schedule and draft programme were noted (see Addendum E and F).

9. **Closure**

The meeting adjourned at 17h40.

These minutes were ratified at the meeting of the Negotiating Council of 18 October 1993 and the amended version signed by the Chairperson of the original meeting on 18/10/1993.....

  
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CHAIRPERSON

**Addendum A**

The following delegates and advisers were present at the meeting of the Negotiating Council on Thursday 7 October 1993:

DJ de Villiers : Chairperson

| <b>Organisation</b> | <b>Delegates</b>          | <b>Advisers</b>             |
|---------------------|---------------------------|-----------------------------|
| ANC                 | PM Maduna<br>B Kgositsile | M Manzini                   |
| AVU                 | JM Roos<br>C Kruger       | AJ Horn                     |
| Bophuthatswana      | R Mangope<br>SG Mothibe   |                             |
| Cape Trad. Leaders  | M Nonkonyana              | GD Gwadiso<br>DM Jongilanga |
| Ciskei              | IJ Smuts<br>VT Gqiba      | TM Bulube                   |
| DP                  | KM Andrew<br>D Smuts      | AJ Leon                     |
| Dikwankwetla        | JSS Phatang               | TJ Mohapi                   |
| IFP                 |                           |                             |
| IYP                 | NS Mtsweni                | AP Laka                     |
| KP                  |                           |                             |
| INM                 | SS Ripinga<br>ND Mokoena  | MS Gininda<br>GG Zama       |
| Kwazulu             |                           |                             |
| Labour Party        | L Joseph<br>L Landers     | T Abrahams<br>MA Hendrickse |
| NIC/TIC             | PJ Gordhan<br>F Hajaij    | K Mayet                     |
| NP                  | L Wessels<br>TJ King      |                             |
| NPP                 | A Rajbansi<br>L Singh     | O Gany                      |
| OFS Trad. Leaders   | MB Mota                   | MA Molefe<br>B Rajuili      |



PAC

RK Sizani  
P de Lille

B Desai

Solidarity

DS Rajah

TL Gounden  
D Naidoo

SACP

H Cheadle  
L Jacobus

E Pahad  
S Shilowa

SA Government

HJ Coetsee  
LR Brink

RP Meyer

Transkei

Z Titus  
N Jajula

R Nogumla

TVL Trad. Leaders

LM Mokoena

NE Ngomane  
MA Netshimbupfe

UPF

A Chabalala  
J Maake

RJ Dombo

Venda

SE Moeti

S Makhuvha  
GM Ligege

XPP

PT Shilubana  
MH Matjokana

GNK Hetisani

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