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**DOCUMENT PACK FOR THE  
MEETING OF THE PLENARY OF THE  
MULTI-PARTY NEGOTIATING  
PROCESS**

**17 NOVEMBER 1993**

***VOLUME I***

**EMBARGOED UNTIL THE START OF THE PLENARY**

**PLENARY SESSION  
OF THE MULTI-PARTY NEGOTIATING PROCESS  
HELD ON WEDNESDAY 17 NOVEMBER 1993  
AT THE WORLD TRADE CENTRE**

**DRAFT AGENDA**

***Section 1 - Opening:***

1. **Moment of Prayer/Meditation**
2. **Welcome**
3. **Rules for Plenary (see Addendum A, p4)**

***Section 2 - Substantive Issues:***

4. **Overview of Process (see Addendum B, p6)**
5. **Report of the Negotiating Council to the Plenary (see Addendum C, p7)**
  - 5.1 **Transitional Structures: (see Addendum D, p14)**
    - 5.1.1 **Transitional Executive Council**
    - 5.1.2 **Independent Electoral Commission**
    - 5.1.3 **Independent Media Commission**
    - 5.1.4 **Independent Broadcasting Authority**
  - 5.2 **Constitution for the Transitional Period (see Addendum E, p15)**
  - 5.3 **Electoral Bill**
  - 5.4 **Other proposed Bills or matters being considered**

***Section 3 - Way Forward:***

6. **Final Resolution (see Addendum F, p16)**
7. **Addresses by Leaders of Delegations (see Addendum G, p17)**

**Signing of Solemn Convention/Declaration of Commitment to Democracy  
(available in meeting)**

8. **Closure**



# Sessions of Chairpersons

*Chairpersons : Judges P Schabort and I Mohamed:*

## Section 1 - Opening:

1. **Moment of Prayer/Meditation**
2. **Welcome**

*Chairperson : L Landers*

3. **Rules for Plenary**
  - 3.1 **Steering Committee**

## Section 2 - Substantive Issues:

4. **Overview of Process**

*Chairperson : B Kgositsile*

5. **Report of the Negotiating Council to the Plenary**
  - 5.1 **Transitional Structures:**
    - 5.1.1 **Transitional Executive Council**
    - 5.1.2 **Independent Electoral Commission**
    - 5.1.3 **Independent Media Commission**
    - 5.1.4 **Independent Broadcasting Authority**

*Chairperson : PJ Gordhan:*

- 5.2 **Constitution for the Transitional Period**

*Chairperson : DJ de Villiers:*

- 5.3 **Electoral Bill**

*Chairperson : MJ Mahlangu:*

- 5.4 **Other proposed Bills or matters being considered**

*Chairperson : M Finnemore:*

**Section 3 - Way Forward:**

**6. Final Resolution**

*Chairpersons : Judges P Schabort and I Mohamed:*

**7. Solemn Convention/Declaration of Commitment to Democracy**  
Signing and speeches by leaders

**8. Closure**



## GUIDELINES/RULES FOR PLENARY

The following guidelines and rules are recommended to the plenary in order to facilitate the business of the Plenary.

1. **Role of the Plenary:**

The role of the Plenary is to formally adopt agreements. (As per the decision taken by general consensus at the Negotiating Forum Meeting of 1 April 1993.)

2. **Steering Committee:**

2.1 A Steering Committee consisting of the following persons shall be established by the Negotiating Council subject to approval by the Plenary:

- \* B Alexander
- \* C Eglin
- \* PJ Gordhan
- \* C Kruger
- \* RP Meyer
- \* MC Ramaphosa
- \* S Sigcau
- \* J Slovo
- \* Z Titus
- \* M Maharaj
- \* SS van der Merwe

2.2 The Steering Committee will:

- \* Assist the Chairpersons
- \* Consider resolutions placed before Plenary
- \* Help to manage the program
- \* receive technical amendments if necessary

3. **Procedure on Substantive Issues:**

3.1 The TEC Act, the IEC Act, the IMC Act and the IBA Act will be put to the plenary for adoption as a package.

3.2 Participants should note that all Acts will have an addendum which will indicate the decision on each clause. A participant which reserved its position or objected will observe that its position has been recorded as such in the

addendum. There would be, therefore, no need for any participant to verbalise such reservation and objection in the plenary.

3.3 There will, therefore, be no debate on substantive issues, participants will be permitted to have their reservations/objections recorded if necessary.

3.4 Constitution for Transition:

Each Chapter/Schedule of the draft Constitution will be put to the Plenary for adoption. Clause 3.3 above will apply in this instance as well.

4. **Time:**

4.1 The interventions indicated in 3.3 above should be brief and should not exceed 2/3 minutes for each organisation for each item of the agenda.

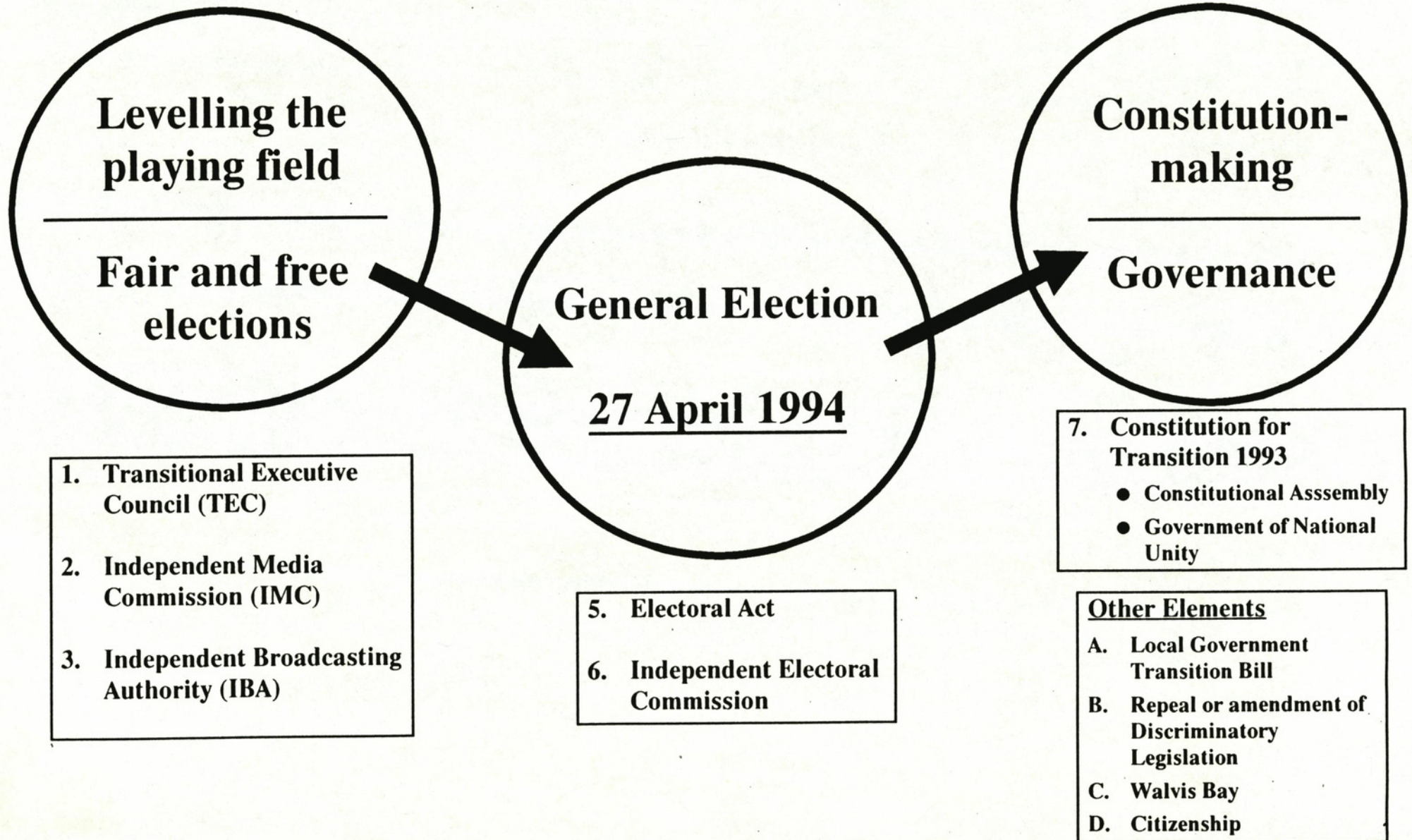
4.2 Leaders will be permitted 6 minutes to address the Plenary under item 7 of the agenda.

5. **Technical Amendments:**

Any technical amendments proposed during the plenary will be referred to the Negotiating Council for consideration.



# OVERVIEW OF TRANSITIONAL PROCESS





**REPORT OF THE NEGOTIATING COUNCIL  
TO PLENARY OF THE MULTI-PARTY NEGOTIATING PROCESS  
HELD ON WEDNESDAY, 17 NOVEMBER 1993  
AT THE WORLD TRADE CENTRE**

**1. Introduction:**

- 1.1 The Planning Conference which met on 5 and 6 March, 1993 adopted a "Resolution on the Need for the Resumption/Commencement of Multi-Party Negotiations" (RESOLUTION NO. 2) in terms of which it resolved to:
  - 1.1.1 "commit ourselves, individually and collectively, to the resumption/commencement of multi-party negotiations within next month, in order to move as speedily as possible towards the attainment of our primary objective, which is the drafting and adoption of a new Constitution for South Africa";
  - 1.1.2 direct the multi-party negotiating forum established pursuant to the above to consider and implement various matters.
- 1.2 The Negotiating Forum meeting on 1 April, 1993, resolved (RESOLUTION NO. 4) to refer a number of constitutional issues to the Negotiating Council for its consideration. The Forum also adopted a resolution on violence (RESOLUTION NO. 5).
- 1.3 On 30 April, 1993 the Negotiating Council adopted an "Explanatory Memorandum" which, inter alia, stated:
  - "6. It is expressly understood by all participants that each of the above proposals and the documentation emanating from such technical committees shall be discussed in the Negotiating Council with the view to arriving at an agreement on these matters. Furthermore that as and when agreement is reached on each of these matters the Council shall expressly determine when and how the specific agreement shall be implemented. This provision is made so as to ensure participants have a clear understanding of the package of agreements which would constitute the key elements of the transition process".
- 1.4 This report of the Negotiating Council presents the progress made by the Negotiating Council on:
  - 1.4.1 "the package of agreements which would constitute the key elements of the transition process";



- 1.4.2 the work of the Negotiating Council generally;
- 1.4.3 the "levelling" mechanisms, viz., the Transitional Executive Council, the Independent Media Commission and the Independent Broadcasting Authority;
- 1.4.4 the holding of elections, in particular the election date; the Independent Electoral Commission and the Electoral Act;
- 1.4.5 the Constitution for the Transitional Period;
- 1.4.6 certain outstanding matters which have a bearing on the above; and
- 1.4.7 other matters, such as the role of the International Community.

2. **Work of The Negotiating Council:**

- 2.1 The Negotiating Council has had seventy-four meetings between 1 April and 17 November, 1993 (Addendum O).
- 2.2 The Negotiating Council established seven Technical Committees, two Commissions, two Task Groups and various ad hoc and sub-committees which assisted the Negotiating Council in its work.
- 2.3 The Planning Committee of the Negotiating Council, established to facilitate the work of the Negotiating Council, had sixty-three meetings from 1 April to 17 November, 1993.

3. **Four Bills Already Approved and Enacted by Parliament:**

- 3.1 The following were the first bills to be adopted by the Negotiating Council and submitted to Parliament for enactment, viz.:
  - (a) the Transitional Executive Council Bill;
  - (b) the Independent Media Commission Bill;
  - (c) the Independent Broadcasting Authority Bill; and
  - (d) the Independent Electoral Commission Bill.

These were enacted during the September session of Parliament.

- 3.2 The Transitional Executive Council (TEC) Bill:



3.2.1 This Bill established the TEC. The TEC was established with a view to promoting the preparation for and transition to a democratic order in South Africa. It will be assisted in the execution of its functions by a number of Subcouncils.

3.2.2 Addendum F provides details of the decisions taken by the Negotiating Council on each clause of the Bill.

3.2.3 The TEC Bill was adopted by sufficient consensus in the Negotiating Council with:

(a) The Afrikaner Volksunie reserving their position;

(b) The Governments of Bophuthatswana and Ciskei opposing the acceptance of the draft Bill, and the Pan Africanist Congress of Azania abstained from being party to the decision of adopting the draft Bill until further consultation with its principals.

3.3 Independent Media Commission (IMC) Bill:

3.3.1 This Bill established the IMC. The IMC is a body established for purposes of ensuring, during the period of the first national election for the National Assembly and other legislatures under the Constitution to be held after the commencement of this Act, the equitable treatment of political parties by broadcasting licensees and that State-financed publications and State information services do not advance the interests of any political party.

3.3.2 Addendum J provides details of the decisions taken by the Negotiating Council on each clause of the Bill.

3.3.3 The IMC Bill was adopted by general consensus in the Negotiating Council.

3.4 Independent Broadcasting Authority (IBA) Bill:

3.4.1 This Bill establishes the IBA. The IBA was established to provide for the regulation of broadcasting activities in the public interest and functions wholly independently of State, governmental and party political influences and free from political or other bias or interference.

3.4.2 Addendum L provides details of the decisions taken by the Negotiating Council on each clause of the Bill.

3.4.3 The IBA Bill was adopted by general consensus in the Negotiating Council.



### 3.5 Independent Electoral Commission (IEC) Bill:

3.5.1 This Bill establishes the IEC. The IEC has been established for purposes of ensuring the conduct of free and fair elections for the National Assembly and any other elected legislature contemplated in the Constitution of the Republic of South Africa Act, 1993.

3.5.2 Addendum H provides details of the decisions taken by the Negotiating Council on each clause of the Bill.

3.5.3 The IEC Bill was adopted by general consensus in the Negotiating Council. The AVU reserved its position.

### 3.6 Recommendation:

The Negotiating Council recommends that the Plenary:

- (a) Endorses these four Bills which are now Acts of Parliament;
- (b) Instructs the Negotiating Council to implement these Acts when appropriate and also to undertake the necessary preparatory work in respect of the implementation of these Bills.

## 4. **Constitution for the Transitional Period:**

4.1 On 30 June, 1993 the Negotiating Council as per Resolution No. 21 resolved:

- (a) that "the Multi-Party Negotiating Process shall adopt the Constitutional Principles, including principles of regional government, providing for both strong regional government and strong national government"; and
- (b) instructed the Technical Committee on Constitutional Issues to "draft a Constitution for the transition which shall make provision for:

2.1 The election according to a system of proportional representation of a Constitution-Making Body, legislature and national government for the transitional phase which will include a national and regional component. With regard to constitution-making, this Constitution shall provide for dead-lock breaking and special majorities by which decisions will be taken;

2.2 The election of regional legislatures and the establishment of regional government in the transition;



- 2.3 The powers, functions and structures of regions for the transitional period;
  - 2.4 Fundamental human rights on a justiciable basis during the transitional period;
  - 2.5 A Constitutional Court/Tribunal to ensure the justiciability of the Constitutional Principles, of the fundamental rights and of the Constitution itself".
- 4.2 The Draft of the Constitution for the Transitional Period which is being presented for consideration of the Plenary appears in Addendum Q.
  - 4.3 This draft contains all the chapters and schedules of the said Constitution but still requires technical revision.
  - 4.4 Recommendation:
    - 4.4.1 The Negotiating Council recommends that the Plenary endorses this draft of the Constitution for the Transitional Period.
    - 4.4.2 The Negotiating Council recommends that it be mandated to complete further technical processing of this draft Constitution for the Transitional Period and submit it to Parliament.

5. **Electoral Bill:**

- 5.1 On 22 June 1993, the Negotiating Council agreed that an Electoral Bill shall be drafted for the purposes of the election to be held on 27 April 1994.
- 5.2 The Negotiating Council submits a draft of the Electoral Bill for consideration by the Plenary of the Multi-Party Negotiating Process (Addendum R).
- 5.3 Addendum S is a schedule of decisions in respect of the Electoral Bill which indicates the status of the various clauses of the Bill.
- 5.4 Recommendation:
  - 5.4.1 The Negotiating Council recommends that the Plenary endorses the Electoral Bill.
  - 5.4.2 The Negotiating Council recommends that it be mandated to complete further technical processing of this draft Electoral Bill and submit it to Parliament.



**6. Role of The International Community:**

6.1 The Negotiating Council has given consideration to the role of the International Community in respect of various elements of the transition process. Provision has been made for their participation in the IEC and in various other aspects relating to the electoral process.

6.2 The Negotiating Council acknowledges that the International Community has a vital and indispensable role in the transition process in South Africa and looks forward to their involvement in the process leading up to the elections.

6.3 Recommendation:

The Plenary directs the Negotiating Council to inform the respective international organisations of their role in the transition process.

**7. Other Matters Receiving Attention:**

7.1 The following bills or matters which may result in legislation are in various stages of discussion or processing in the Multi-Party Negotiating Process:

7.1.1 Local Government Transition Bill;

7.1.2 Repeal or Amendment of Discriminatory Legislation and Legislation impeding Free Political Activity;

7.1.3 Reintegration of Walvis Bay into Namibia;

7.1.4 Citizenship;

7.1.5 Bill dealing with the future of TBVC States;

7.1.6 Establishment of an Independent Telecommunications Authority.

7.2 These matters are not vital to the principal package of key elements but might be necessary to give effect to the resolutions already adopted by the Negotiating Council. The decisions taken on repeals appear in Addendum M3.

7.3 Recommendation:

The Negotiating Council, therefore, recommends to Plenary that it:

7.3.1 Endorses the need for these matters to be dealt with and finalised by the Negotiating Council; and



7.3.2 Mandates the Negotiating Council to continue to finalise these matters and thereafter submit to Parliament any required legislation and, where appropriate, take the necessary steps to implement the resultant legislation.



**SECOND DRAFT PLENARY RESOLUTION 1**

**DRAFT RESOLUTION OF PLENARY  
OF MULTI-PARTY NEGOTIATING PROCESS  
ON ENDORSEMENT OF LEGISLATION  
ADOPTED BY NEGOTIATING COUNCIL**

This Plenary of the Multi-Party Negotiating Process held on Wednesday, 17 November 1993 at the World Trade Centre:

1. **Noting the:**

- 1.1 Adoption of the Transitional Executive Council Bill, the Independent Electoral Commission Bill, the Independent Media Commission Bill and the Independent Broadcasting Authority Bill by the Negotiating Council; and
- 1.2 Enactment of these Bills by Parliament and their subsequent publication in the Government Gazette.

2. **Hereby resolves to:**

- 2.1 Endorse the Transitional Executive Council Act, the Independent Electoral Commission Act, the Independent Media Commission Act, the Independent Broadcasting Authority Act;
- 2.2 Mandate the Negotiating Council to take the necessary steps to implement these Acts; and
- 2.3 Mandate the Negotiating Council to process any technical amendments to these Acts should this be necessary.



**SECOND DRAFT PLENARY RESOLUTION 2**

**DRAFT RESOLUTION OF PLENARY  
OF MULTI-PARTY NEGOTIATING PROCESS  
ON THE CONSTITUTION FOR THE TRANSITIONAL PERIOD**

This Plenary of the Multi-Party Negotiating Process held on Wednesday, 17 November 1993 at the World Trade Centre:

1. **Noting:**

The report of the Negotiating Council on the Constitution for the Transitional Period;  
and

2. **Therefore Resolves to:**

2.1 Agree on the draft of the Constitution for the Transition; and

2.2 Mandate the Negotiating Council to agree on outstanding issues in this regard, to agree on necessary technical amendments and to monitor the legislative process.



**SECOND DRAFT PLENARY RESOLUTION 3**

**DRAFT RESOLUTION OF PLENARY  
OF THE MULTI-PARTY NEGOTIATING PROCESS  
ON A MANDATE TO THE NEGOTIATING COUNCIL**

This Plenary of the Multi-Party Negotiating Process held on Wednesday, 17 November 1993 at the World Trade Centre:

1. **Salutes:**

The commendable progress made by the Negotiating Council in concluding negotiations on constitutional issues;

2. **Humbly Aware:**

Of the momentous agreements reached in the negotiating process which provide a constructive foundation for a transition to democracy;

3. **Recognising:**

That the Negotiating Council still has matters before it which require further attention;

4. **Therefore Resolves:**

To adopt with acclaim the package of agreements presented by the Negotiating Council to this PLENARY, including the election date of 27 April 1993;

5. **And Further Resolves to Mandate the Negotiating Council:**

5.1 To continue with the negotiating process in order to complete the work before it/to complete the work of the Multi-Party Negotiating Process;

5.2 To establish the Transitional Executive Council which shall be the successor to the Negotiating Council;

5.3 To undertake such technical amendments in order to finalise the Acts endorsed by the plenary as might be necessary;

5.4 To supervise the legislative process in respect of the Acts.



## ORDER OF SPEAKING

1. African National Congress
2. Afrikaner Volksunie
3. Cape Traditional Leaders
4. Democratic Party
5. Dikwankwetla Party
6. Intando Yesizwe Party
7. Inyandza National Movement
8. Labour Party
9. Natal/Transvaal Indian Congress
10. National Party
11. National People's Party
12. Orange Free State Traditional Leaders
13. Pan Africanist Congress of Azania
14. Solidarity Party
15. South African Communist Party
16. Transkei Government
17. Transvaal Traditional Leaders
18. United People's Front
19. Venda Government
20. Ximoko Progressive Party
21. South African Government