

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 14H35 ON TUESDAY 1 JUNE 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

2.1 The participants were welcomed.

2.2 Apologies were noted on behalf of L Landers and Chief Nonkonyana for a late arrival.

3. Ratification of the Agenda

The agenda was ratified with no amendments.

4. Meetings Schedule

4.1 A proposed meetings schedule as recommended by the Planning Committee was agreed to (see Addendum B).

4.2 It was noted that, although a Negotiating Forum is scheduled for 25 June 1993, if sufficient progress was made and it was deemed necessary by the Negotiating Council, the date could be brought forward.

5. Minutes

5.1 The minutes of the meeting of the Negotiating Council of 27 May 1993 were ratified with the following amendments:

5.1.1 The heading of the minutes refers, the word "Tuesday" be replaced by "Thursday";

- 5.1.2 The spelling of BE Keikelame from the Bophuthatswana Government be corrected in Addendum A;
 - 5.1.3 That "J Gouws" from the AVU be removed from Addendum A;
 - 5.1.4 That "SOM Moji" from the Dikwankwetla Party be added to the delegation as an advisor in Addendum A.
- 5.2 The minutes of the meeting of the Negotiating Council of 28 May 1993 were adopted with the following amendment:
- The addition of a new Item 5.1.4 to read "Item 5.3.4 refers, the addition of a further sentence to read It was noted that the issue of ethnicity could be accommodated in points 7 and 10 of the resolution". The subsequent numbering would be amended accordingly.
- 5.3 No matters arising were noted from the minutes of the meeting of the Negotiating Council of 27 May 1993.
- 5.4 No matters arising were noted from the minutes of the meeting of the Negotiating Council of 28 May 1993.

6. Substantive Issues

6.1 Reports of the Technical Committees:

6.1.1 Technical Committee on Constitutional Issues:

- 6.1.1.1 The members of the Technical Committee were welcomed. Present were F Cachalia, A Chaskalson, GE Devenish, B Ngoepe, M Olivier, W Olivier, F Venter and M Wiechers. Apologies from E Moseneke were noted.
- 6.1.1.2 It was noted that the Technical Committee is present in the Negotiating Council for questions of clarification only and debate should take place amongst participants.
- 6.1.1.3 The Third Report of the Technical Committee was formally tabled. The Technical Committee then presented an overview, highlights and issues which require decision/guidance from the Negotiating Council from the Second and Third Reports.
- 6.1.1.4 The KP at this stage requested an opportunity to present oral evidence to the Technical Committee. It was

agreed that the KP present their submission in writing to the Technical Committee but this would not rule out the possibility of an oral presentation to the Technical Committee.

6.1.1.5 It was further agreed that should the Technical Committee be of the opinion that such an oral presentation would assist the process, it should advise the Negotiating Council thereof and that the Negotiating Council revisit this matter at its next meeting.

6.1.1.6 The KP noted that it reserved its right to address the Negotiating Council in line with the above request. A concern was raised by the KP that some delegations may have approached the Technical Committees on an informal basis; it was agreed that this issue be referred to the Planning Committee for a possible recommendation encompassing guidelines in this regard.

6.1.1.7 The following recommendation of the Planning Committee aimed to facilitate a more structured and pointed debate of the reports was then put to the meeting:

The Planning Committee recommends that the Negotiating Council look at:

- * Constitutional Principles;
- * Principles on Regional Government;
- * Process for the Democratic Creation and Adoption of a Final Constitution;

in a holistic way with a view to facilitate complete and pointed discussion on these issues and in this way provide for decisions to be taken by the Negotiating Council which would enable the Technical Committee to proceed with its work.

These three issues are inter-related and will provide a framework to deal separately and collectively with the issues, as well as ensuring that concerns with regard to regional principles and constitutional issues are addressed.

This process will facilitate discussion within the Technical Committee and the Negotiating Council on the powers, functions and structures of States/Provinces/Regions. It will also lead to a provisional agreement which will enable the process to move forward. Within this process compromises may also be found.

Therefore these issues should be discussed in the following order:

- * The Transitional Process
- * Principles of Regional Government
- * General Constitutional Principles

6.1.1.8 Discussion and the expressing of various views then followed. After discussion it was agreed to discuss the transitional process. The KP noted its disagreement in this regard.

6.1.1.9 Further discussion followed and a proposal was put forward to the meeting by the ANC and added to by the SA Government. It was then agreed that the meeting adjourn for the Planning Committee to meet to draft a proposed resolution on Constitutional Issues.

The meeting adjourned at 17h00 for tea and for the Planning Committee to draft the proposed resolution.

The meeting reconvened at 18h50.

6.1.1.10 A draft resolution as proposed by the Planning Committee was adopted by the meeting with sufficient consensus (see Addendum C). In this regard the following was noted:

- * That the IFP saw this resolution as a directive giving the Technical Committee a way in which to proceed with their work and that this did not indicate a binding commitment on behalf of the IFP to the specific wording of the resolution; That although the IFP saw this resolution as a directive they reserved their position until having consulted with their principal; Furthermore, that reservations were expressed

with regard to certain words in the resolution e.g. "transitional";

- * That the Dikwankwetla Party reserved their position on the resolution until having consulted with their principal;
- * That the Bophuthatswana Government reserved their position on certain aspects of the resolution and until having consulted with their principal;
- * That the KP reserved all rights in this regard until having consulted with their principal; The KP further reserved their rights with regard to the issue of giving oral evidence to the Technical Committee on Constitutional Issues;
- * That the PAC have some difficulties to effectively participate in the meeting, but that the meeting could continue along the basis of the resolution.

6.1.1.11 It was noted that the resolution would serve as a working basis for the next meeting of the Negotiating Council on Thursday 3 June 1993.

6.1.1.12 It was noted that the Technical Committee would have a report on (at least) Item 3.1 of the Resolution on Constitutional Issues (the powers, functions and structures of the SPR during the transitional period) completed for the meeting of the Negotiating Council on Thursday 3 June 1993. It was noted that the report would not be completed in time to be distributed prior to the meeting.

6.1.2 **Technical Committee on the Independent Election Commission:**

Due to time constraints, it was agreed to defer the discussion on the reports of this Technical Committee to the next meeting of the Negotiating Council on Thursday 3 June 1993.

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

Due to time constraints, it was agreed to defer the discussion on the reports of this Technical Committee to the next meeting of the Negotiating Council on Thursday 3 June 1993.

6.1.4 Technical Committee on the Amendment or Repeal of Legislation Impeding Free Political Activity and Discriminatory Legislation:

It was noted that this report of the Technical Committee was distributed at this meeting but due to time constraints, it was agreed to defer the discussion on this report of the Technical Committee to the next meeting of the Negotiating Council on Thursday 3 June 1993.

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

Due to time constraints, it was agreed to defer the discussion on the reports of this Technical Committee to the next meeting of the Negotiating Council on Thursday 3 June 1993.

6.2 Election Date:

Due to time constraints, it was agreed to defer this issue to the next meeting of the Negotiating Council on Thursday 3 June 1993.

6.3 SA Government/PAC Report Back:

6.3.1 It was noted that a bi-lateral meeting between the SA Government and the PAC had been held on Tuesday 1 June 1993 and a further bi-lateral meeting was scheduled for Thursday 3 June 1993. Furthermore, that both the SA Government and the PAC had issued statements with regard to the outcome of the bi-lateral.

6.3.2 The PAC expressed its concern that agreement could not be reached on various issues, such as the return of all documentation by the SAP and the immediate and unconditional release of PAC members. The PAC further noted that if the documentation was not returned by Thursday 3 June 1993 and the relevant PAC members are not released, the PAC would find it increasingly difficult to keep participating in the negotiating process.

6.3.3 The SA Government highlighted the following point with regard to the statement they released:

It is the view of the SA Government that no party that is still committed to and engaged in armed activities including the killing of people can participate in an election and any preparations leading to such an election. The PAC has so far failed to meet this condition. The SA Government is prepared to immediately enter into bi-lateral discussions with the PAC with a view to achieve the suspension of the armed struggle or a moratorium on all armed activities of the PAC and Apla. The SA Government is awaiting a response to this from the PAC on Thursday morning.

6.3.4 It was suggested that the Planning Committee consider the issue of the wording of certain placards by PAC supporters at the main gate, these not being in line with the spirit of the Multi-Party Negotiating Process.

7. **Procedural Issues**

7.1 **Media Arrangements:**

Due to time constraints, it was agreed to defer this issue to the next meeting of the Negotiating Council on Thursday 3 June 1993.

7.2 **New Participants:**

Due to time constraints, it was agreed to defer this issue to the next meeting of the Negotiating Council on Thursday 3 June 1993.

8. **Administrative Matters**

Due to time constraints, it was agreed to defer this issue to the next meeting of the Negotiating Council on Thursday 3 June 1993.

9. **Closure**

The meeting was closed at 19h30.

These minutes were ratified at the meeting of the Negotiating Council of 3 June 1993 and the amended version signed by the Chairperson of the original meeting on 22/6/1993


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CHAIRPERSON

The following delegates and advisers were present at the meeting of the Negotiating Council on Tuesday 1 June 1993:

PJ Gordhan : Chairperson
 L Landers : Assistant to the Chairperson
 M Webb : Assistant to the Chairperson

Organisation	Delegates	Advisers
ANC	C Ramaphosa B Kgositsile	MV Moosa M Manzini
AVU	CD de Jager J Gouws	JJC Botha MJ Mentz
Bophuthatswana	R Cronje R Mangope	SG Mothibe BE Keikelame
Cape Trad. Leaders	GD Gwadiso SN Sigcau	DM Jongilanga SM Burns-Ncamhsoe
Ciskei	TM Bulube VT Gqiba	C Vale
DP	C Eglin M Finnemore	K Andrew P Soal
Dikwankwetla	TJ Mohapi K Ngwenya	SOM Moji JSS Phatang
IFP	FT Mdlalose FX Gasa	WS Felgate VJ Matthews
IYP	NJ Mahlangu N Mtsweni	AP Laka Q Vilankulu
KP	T Langley A Budd	FJ Le Roux CP Mulder
INM	SS Ripinga	GG Zama PMH Maduna
Kwazulu	BS Ngubane H Ngubane	
Labour Party	PAC Hendrickse	E Samuels
NIC/TIC	C Saloojee	

NP	DJ de Villiers MM Gabriels	SJ Schoeman L Wessels
NPP	A Rajbansi VP Ramdhany	J Bacohu
OFS Trad. Leaders	RH Mopeli M Moroke	MB Mota MA Molefe
PAC	B Alexander P de Lille	B Dersai M Lhleko
Solidarity	DS Rajah	AS Razak
SACP	J Slovo L Jacobus	E Pahad S Shilowa
SA Government	RP Meyer H Jacobs	JT Delpont SS van der Merwe
Transkei	Z Titus N Jajula	
TVL Trad. Leaders	LM Mokoena	MA Netshimbupfe
UPF	MJ Mahlangu A Chabalala	J Maake RJ Dombo
Venda	SE Moeti	GM Ligege S Makhuvha
XPP	EE Ngobeni PT Shilubana	MH Matjokana

T Eloff	:	Administration
G Hutchings	:	Minutes
K Morgan	:	Administration
P Lelaka	:	Administration
G Briggs	:	Administration
M Radebe	:	Administration

REVISED PROPOSED SCHEDULE OF MEETINGS

1 JUNE 1993

Planning Committee	Tuesday 1 June 1993	10h00 - 13h00
Negotiating Council	Tuesday 1 June 1993	14h00 - 20h00
Planning Committee	Thursday 3 June 1993	08h30 - 10h00
Negotiating Council	Thursday 3 June 1993	10h00 - 18h00
Planning Committee	Thursday 3 June 1993	18h00 - 20h00

Technical Committees do detailed work	Monday 7 June 1993 to Friday 11 June 1993	
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Planning Committee	Monday 14 June 1993	08h30 - 13h00
Negotiating Council	Monday 14 June 1993	14h00 - 20h00
Negotiating Council	Tuesday 15 June 1993	10h00 - 18h00
Planning Committee	Thursday 17 June 1993	08h30 - 13h00
Negotiating Council	Thursday 17 June 1993	14h00 - 20h00
Negotiating Council	Friday 18 June 1993	10h00 - 18h00

Planning Committee	Monday 21 June 1993	10h00 - 18h00
Negotiating Council	Tuesday 22 June 1993	11h00 - 20h00
Negotiating Council	Wednesday 23 June 1993	11h00 - 19h00
Planning Committee	Thursday 24 June 1993	08h30 - 11h00
Negotiating Council	Thursday 24 June 1993	11h00 - 19h00
NEGOTIATING FORUM	Friday 25 June 1993	10h00 - 18h00

RESOLUTION ON CONSTITUTIONAL ISSUES

HAVING NOTED:

The clear linkage between constitutional principles, the constitution-making process and constitutional structures, powers and functions of SPR's as apparent in paragraph 6.3 of the Second Report of the Technical Committee on Constitutional Issues.

IT IS RESOLVED THAT:

1. The Negotiating Council proceeds to negotiate and endeavour to agree on the constitutional principles recommended by the Technical Committee as set out in paragraph 2 of its Third Report, and the detailed principle dealing with the allocation of powers to different levels of government as set out in paragraph 3 of its Third Report.
2. There is a need for the adoption of a Constitution for the transitional period, the text of which is agreed to at the Multi-Party Negotiating Process:
 - 2.1 Which shall be drafted in accordance with the constitutional principles agreed upon in so far as they may be applicable;
 - 2.2 Which will provide, inter alia, for justiciable fundamental rights, the structures of national and regional governments and their respective powers, functions and authority; and
 - 2.3 As well as which will provide for the procedures relating to the drafting and adoption of a Constitution by the elected constitution-making body.
3. **Now therefore the Negotiating Council instructs the Technical Committee on Constitutional Issues to make recommendations to it on:**
 - 3.1 The powers, functions and structures of the SPR during the transitional period;
 - 3.2 The constitution-making process to be followed, including the structures that need to be established for that purpose;
 - 3.3 The procedures to be followed in the drafting and adoption by the Multi-Party Negotiating Forum of a Constitution for the transitional period;
 - 3.4 The procedure to be followed thereafter in the drafting and adoption of a Constitution by an elected constitution-making body.