

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

MINUTES OF THE MEETING OF THE NEGOTIATING COUNCIL HELD AT 14h15 ON THURSDAY 28 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 The minutes of the meeting of 18 October 1993 and 20 October 1993 were ratified with no amendments.

4.2 No matters arising were noted out of the minutes of 18 October 1993 and 20 October 1993.

5. Planning Committee Reportback (submitted by C Eglin on behalf of the Planning Committee)

5.1 Constitutional Issues:

5.1.1 It was noted that the extent of progress in bilaterals had been such that submissions by the involved parties could be made to the Technical Committee for drafting.

5.1.2 It was further noted that the submissions have the same status as any other submissions and that other participants were free to also submit

proposals.

- 5.1.3 The present submissions would cover the powers and functions of SPR's, fiscal issues, local government and constitutional principles.
- 5.1.4 It was noted that, because of bilaterals, the schedule of meetings would have to be adopted (see Addendum B).
- 5.1.5 It was finally noted that inputs from bilateral meetings were not binding on the Negotiating Council until the Council had taken a decision on the report of the Technical Committee.

5.2 **Demarcation/Delimitation of Regions:**

- 5.2.1 It was reported that reports from the Ad-Hoc Committees would be circulated that afternoon for discussion on Monday 1 November 1993.
- 5.2.2 The Planning Committee had, in this regard, prepared a draft resolution on the way forward. This would also be circulated.
- 5.2.3 Questions were raised about the mandate of the Planning Committee to receive reports from sub-structures and submit recommendations on them to Council.
- 5.2.4 It was pointed out that the Planning Committees' report did not contain executive decisions, but recommendations that had to be accepted or rejected by the Negotiating Council. Lengthy discussion proceeded on this issue.
- 5.2.5 A proposal that the draft resolution containing recommendations by the Planning Committee be scrapped from the agenda of the meeting of the Negotiating Council on Monday 1 November 1993, could find no seconder and therefore fell away.
- 5.2.6 It was agreed by consensus that the Planning Committee, in the normal role that it had played, could have sight of reports emerging from sub-structures, could consider these reports and could advise the Council on further processes, provided that it did not take or implement any decisions without prior consent of the Negotiating Council and provided that the Negotiating Council had not empowered it otherwise.
- 5.2.7 It was finally noted that the concept of Convenors suggested by the Planning Committee for the Ad-Hoc Committees, through the Administration, did not violate the composition of the Ad-Hoc Committees and had been accepted in a full meeting of all members of the Ad-Hoc Committees. The fact that certain Ad-Hoc Committee had elected their own Chairpersons did not affect this.

5.3 Transition Structures:

- 5.3.1 It was reported that the Planning Committee, through its Sub-Committee, had investigated office accommodation for these structures. No final report was available.
- 5.3.2 It was further reported that, with respect to the TEC, advertisements for staff would appear in Sunday national newspapers on 31 October 1993, and, with respect to the IEC and IMC, on 7 November 1993. Invitations to the public to make nominations to the IEC would also be done through advertisements on 7 November 1993. Participants would soon receive letters inviting them to appoint their respective representatives on the TEC and to make nominations for the IEC and IMC.
- 5.3.3 It was noted that the Negotiating Council had mandated the Planning Committee to plan for the implementation and practical application of the Bills dealing with the transition structures, including informally preparing for the operation of these structures. This report was a recommendation from the Planning Committee on this issue.
- 5.3.4 The written report of the Planning Committee in this regard was accepted by consensus (see Addendum C).

5.4 National Symbols:

- 5.4.1 After a report by C Eglin, on behalf of the Planning Committee, it was agreed that the present seal and coat of arms should remain for the transitional period.
- 5.4.2 It was agreed by sufficient consensus that the Planning Committee be mandated to retain professional agencies and designers to submit designs for a national flag as soon as possible. The designers would be mandated to take into account everything that had gone before, including the submissions made by the public to the Commission on National Symbols. The AVU noted its objection in this regard.
- 5.4.3 It was agreed by sufficient consensus that the issue of the national anthem, being a highly emotive and political one, be referred to bilateral meetings, if necessary under the co-ordination of the Planning Committee. The AVU did not support this agreement.

5.5 National Electrification Forum (NELF):

It was noted that the NELF had, in a meeting with a sub-structure of the Planning Committee, made certain recommendations concerning regional competences which would be sent through the Technical Committee and

distributed in the Negotiating Council.

5.6 Identification of Discriminatory Legislation

It was noted that the report by this Task Group would be couriered to participants over the weekend. Participants were requested to provide Administration with updated physical addresses for this purpose.

5.7 Traditional Leaders:

It was agreed that this issue would be on the agenda of the Negotiating Council meeting of Monday November 1 1993.

5.8 COSATU:

It was noted that members of the Planning Committee would later that day meet with leaders of the demonstrators to receive a memorandum. This would, in due course, be discussed in the Negotiating Council.

5.9 Fundamental Rights during the Transition:

5.9.1 It was noted that some progress had been made in the Ad-Hoc Committee with regard to the property clause and customary law.

5.9.2. It was agreed that the issue of labour and the right to lock out should be referred to an urgent meeting of the National Manpower Commission. Once this body had dealt with it, the Negotiating Council would reconsider this issue again.

5.10 Umtata Raid:

In response to a question, it was noted that there was no progress to be reported and that the Planning Committee would again discuss this issue on Monday 1 November 1993.

5.11 Multi-Party Interim Elections Sub-Committee:

In response to a question, it was noted that no progress had been made on this issue and that it would, likewise, be dealt with by the Planning Committee on Monday 1 November 1993.

5.12 It was noted that the Planning Committee report was accepted by participants.

Substantive Issues - Sixteenth Report of the Technical Committee on Constitutional Issues

6.1 The Technical Committee on Constitutional Issues was welcomed. Present were A Chaskalson, GE Devenish, D Moseneke, M Olivier, W Olivier and F Venter. Apologies were noted from B Ngoepe and M Wiechers. The Technical Committee presented its report to the Negotiating Council. Questions of clarity were put to the Technical Committee during the course of the debate.

6.2 Clause 2 "Election of the President" refers:

- * Clause 2 (1) was agreed to as formulated.
- * Clause 2 (2) was agreed to as formulated.
- * Clause 2 (3) was agreed to as formulated.
- * Clause 2 (4) was agreed to as formulated.
- * Clause 2 (5) was agreed to as formulated.
- * Clause 2 (6) was agreed to as formulated.
- * Clause 2 (7) was agreed to as formulated.
- * It was agreed to delete the word "public" in clause 2 (8). The clause was agreed to.

6.3 Schedule 8 "Procedure for the Election of the President" refers:

- * Clause 1 was agreed to as formulated.
- * With regard to clause 2, it was suggested that the last part was subject to ambiguity. It was further suggested that the words "in a form prescribed" should be inserted for clarification. Alternatively, it was suggested that the letter should be directed to the Chief Justice. The Technical Committee was requested to take note of this suggestion.
- * Clause 3 was agreed to as formulated.
- * Clause 4 was agreed to as formulated.
- * Clause 5 was agreed to as formulated.
- * Clauses 6 (a) and (b) were agreed as formulated.

- * Clauses 7 (a) and (b) were agreed to as formulated.
- * Clause 8 was agreed to as formulated.
- * Clauses 9 (a) and (b) were agreed to as formulated.
- * Clause 10 was agreed to as formulated.

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

7. **Meetings Schedule and Draft Programme**

The meetings schedule and draft programme were noted by participants (see Addendum B and D).

8. **Closure**

The meeting adjourned at 16h15.

These minutes were ratified at the meeting of the Negotiating Council of 11 November 1993 and the amended version signed by the Chairperson of the original meeting on 17/11/93.....


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CHAIRPERSON

The following delegates and advisers were present at the meeting of the Negotiating Council on Thursday 28 October 1993:

B Kgosisile : Chairperson
 PJ Gordhan : Assistant Chairperson

Organisation	Delegates	Advisers
ANC	MV Moosa M Manzini	
AVU	S Burger C Kruger	AJ Horn
Bophuthatswana		
Cape Trad. Leaders	SN Sigcau	GD Gwadiso SM Burns-Ncamoshe
Ciskei		
DP	KM Andrew D Smuts	
Dikwankwetla	MC Noge JSS Phatang	K Ngwenya
IFP		
IYP	NS Mtsweni	Q Vilankulu AP Laka
KP		
INM	SS Ripinga ND Mokoena	MS Gininda
Kwazulu		
Labour Party	L Landers Y Bassier	D Josephs T Abrahams
NIC/TIC	C Saloojee	
NP	L Wessels TJ King	SJ Schoeman
NPP	A Rajbansi T Gunpath	N Rajakam
OFS Trad. Leaders	MB Mota	RS Rajuili

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PAC

P de Lille
B Desai

Solidarity

K Padayche

P Naidoo

SACP

J Slovo
L Jacobus

SA Government

RP Meyer
LR Brink

Transkei

Z Titus
N Jajula

TVL Trad. Leaders

LM Mokoena
MA Netshimbupfe

NE Ngomane
MF Ngomezulu

UPF

A Chabalala
JM Nonyane

J Maake
MP Tladi

Venda

GM Ligege

S Makhuvha

XPP

GNK Hetisani

RB Mabonda
PT Shilubana

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

REVISED PROPOSED SCHEDULE OF MEETINGS

28 OCTOBER 1993

Planning Committee	Thursday 28 October 1993	10h00-13h00
Negotiating Council	Thursday 28 October 1993	14h00-17h00

Planning Committee	Monday 1 November 1993	08h00-10h00
Negotiating Council	Monday 1 November 1993	10h00-20h00
Bilateral Meetings	Tuesday 2 November 1993	08h30-13h00
Negotiating Council	Tuesday 2 November 1993	14h00-22h00
Bilateral Meetings	Wednesday 3 November 1993	08h30-13h00
Negotiating Council	Wednesday 3 November 1993	14h00-22h00
Bilateral Meetings	Thursday 4 November 1993	08h30-13h00
Negotiating Council	Thursday 4 November 1993	14h00-22h00
Negotiating Council	Friday 5 November 1993	08h30-20h00

Please note :

The adjournment times of the Negotiating Council meetings as stated are target times, which will only apply if the agenda has been completed, subject to the final decision of the meeting.

**REPORT FROM THE PLANNING COMMITTEE TO THE
NEGOTIATING COUNCIL ON PREPARATIONS FOR
THE ESTABLISHMENT OF TRANSITIONAL
STRUCTURES:**

28 OCTOBER 1993

1. Legislation on a Transitional Executive Council, an Independent Election Commission and an Independent Media Commission and an Independent Broadcasting Authority is to be implemented only after agreement has also been reached on a constitution at a Plenary meeting.

2. In order for such structures to become operative speedily and effectively in the event of agreement being reached at a Plenary meeting, many complicated preparations are necessary. The Negotiating Council therefore agreed on 2 September 1993 that the Planning Committee shall plan for and make preparations in order to facilitate their implementation.

3. In pursuance thereof
 - advertisements will appear in newspapers next Sunday for initial staff for the Transitional Executive Council (copy attached);

 - advertisements will appear in newspapers on Sunday 7 November 1993 calling for nominations from the public for members of the Independent Electoral Commission and of the Independent Media Commission and for initial staff for these Commissions;

 - letters will go out to participants and former participants calling for nominations for the Transitional Executive Council and its sub-councils and for the Independent Electoral Commission.

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DRAFT PROGRAMME FOR MEETINGS

28 OCTOBER 1993

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|---------------------------|--|---|
| Thursday 28 October 1993 | Discussion: | <ul style="list-style-type: none"> * Constitutional Issues: 16th Report * Planning Committee Reportback |
| Saturday 30 October 1993 | Couriering: Report of Task Group on Identification of Discriminatory Legislation | |
| Monday 1 November 1993 | Discussion: | <ul style="list-style-type: none"> * Identification of Discriminatory Legislation * Demarcation/Delimitation of Regions * Traditional Leaders: Participation at various levels of government <p>Distribution : Certain redrafted chapters of the Draft Constitution for the Transition</p> |
| Tuesday 2 November 1993 | Discussion: | <ul style="list-style-type: none"> * Constitutional Issues (details available on Monday 1 November 1993) <p>Distribution : Third Draft of the Electoral Bill</p> |
| Wednesday 3 November 1993 | Discussion: | <ul style="list-style-type: none"> * Third Draft of the Electoral Bill (including the Electoral Code of Conduct) |
| Thursday 4 November 1993 | Discussion: | <ul style="list-style-type: none"> * Constitutional Issues * Fundamental Rights during the Transition |
| Friday 5 November 1993 | Discussion: | <ul style="list-style-type: none"> * Constitutional Issues (finalisation) * Any other outstanding matters (finalisation) |