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VOLUME ONE

**REPORTS AND RECOMMENDATIONS
FROM THE NEGOTIATING COUNCIL TO THE
NEGOTIATING FORUM HELD AT
THE WORLD TRADE CENTRE
AT 10H00 ON FRIDAY 2 JULY 1993**

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SECTION ONE

1. Introduction

- 1.1 The Negotiating Forum held on 1 April, 1993 referred the following matters to the Negotiating Council to consider and report progress on:
 - 1.1.1 Resolution on Violence (cf. Resolution 5, Addendum A. p31)
 - 1.1.2 Resolution on Transition Progress (cf. Resolution 4, Addendum A. p30)
 - 1.1.3 Procedural issues
- 1.2 This progress report from the Negotiating Council to the Negotiating Forum deals with:
 - 1.2.1 Procedures adopted:
 - 1.2.2 Structures established:
 - 1.2.3 Resolutions adopted; and
 - 1.2.4 The further instructions given by the Negotiating Council in accordance with the mandate given by the Negotiating Forum on 1 April, 1993.
- 1.3 The Negotiating Council has had 20 meetings between 1 April, 1993 and 2 July, 1993 (cf. Addendum D, p94).

2. Procedures and Structures

- 2.1 Upon analysis of the instructions of the Negotiating Forum to the Negotiating Council the issues to be considered and reported upon appeared to fall under three main headings:
 - * Violence
 - * The Constitutional issues including the process leading to a new democratic constitution for South Africa
 - * Structures to be erected and procedures to be adopted in order to level the playing field and to supervise an election for a Parliament/ Constituent Assembly.

- 2.2 The Negotiating Council resolved to constitute seven Technical Committees to assist it in addressing the specific issues that fall under these headings. Participants were asked to submit names of persons who were independent experts in these particular fields and who could be invited to serve on the Technical Committees.
- 2.3 As a consequence of this process the following Technical Committees set out in **Addendum B** (p55) were duly constituted by the Negotiating Council at its meeting on the 7th May 1993.
- 2.4 The members of the Technical Committee were briefed by the Planning Committee on the nature of the tasks before them, the suggested time frame and the method of reporting to the Negotiating Council.
- 2.5 The Sub-Committee of the Planning Committee consisting of Messrs F van der Merwe, Mac Maharaj and Dr B Ngubane were appointed to assist the Planning Committee in co-ordinating the Technical Committees and to act as a liaison mechanism between the Technical Committees and the Planning Committee.
- 2.6 The Technical Committees, having taken into account the instructions from the Negotiating Council, the discussions that have taken place at the meetings of the council and the written submissions by participants, have submitted the reports scheduled in Addendum A (cf. p25).
- 2.7 These reports have formed the basis of debate and negotiation in the Negotiating Council and have played an important role in assisting the Negotiating Process to move forward in a constructive way.
- 2.8 The Negotiating Council would like to place on record its sincere appreciation to the members of the Technical Committees for the enthusiastic and competent manner which they have tackled the tasks and entrusted to them and for the invaluable contribution they have made to the Negotiating Process.
- 2.9 The Negotiating Council adopted an Explanatory Memorandum on 30 April 1993, which stated, inter alia, that agreement will have to be reached on all key elements constituting a package before any agreements were implemented (cf. Resolution 7, Addendum A, p35). Furthermore, this Memorandum states:

"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 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.

7. *Technical Committees are not fora for negotiating substantive issues. They are instruments of the Negotiating Council in order to produce systematic documentation to facilitate discussion and negotiating in the Negotiating Council. Documentation produced by each of these technical committees shall be discussed at the Negotiating Council and on the basis of those discussions sent back to the technical committees for further development. This process would be repeated until agreement is reached in the Negotiating Council on a final document on the issue in question."*

SECTION TWO

3. Resolution on Violence

3.1 The Multi-Party Negotiating Process has always been seized with the question of violence since the Planning Conference of the 5th and 6th of March 1993. On the 1st of April the Negotiating Forum resolved to:

- "1. *Identify those issues that cause violence and which threaten the Negotiating Process and undermine the effective implementation of the National Peace Accord.*
2. *Mandate the Negotiating Council to establish what urgent steps and mechanisms are required to resolve the above issues as a matter of national priority. The Negotiating Council shall report to the next meeting of the Negotiating Forum."*

(cf. Resolution 5, Addendum A, p31)

3.2 On the 7th of May 1993 the Negotiating Council agreed to the establishment of a Technical Committee on Violence. The Technical Committee has compiled and presented four reports to the Negotiating Council thus far. The Technical Committee is currently preparing the fifth report wherein it will address a number of outstanding issues which have already been identified in reports prepared by the Technical Committee.

3.3 On the 28th of May 1993, the Negotiating Council instructed the Technical Committee on Violence to report on conditions that should be created to eliminate violence, in accordance with the Declaration of Intent on the Negotiating Process, adopted by the Negotiating Council on 7 May 1993. On the 22nd of June, based on the work done so far by the Technical Committee, the Negotiating Council resolved that:

- "1. *The National Peace Committee should finalise proposed amendments to the Peace Accord as a matter of urgency so as to strengthen the Accord, empower the Peace Structures and increase their effectiveness;*
2. *The Negotiating Council recommends that the signatories to the Peace Accord meet as a matter of urgency to reaffirm their commitment to the Accord and to approve the proposed amendments to it;*
3. *Non-signatories should give urgent and immediate attention to signing the Peace Accord, after consultation with the National Peace Committee.*

4. *That the Technical Committee on the Independent Electoral Commission develops:*

 - 4.1 *A Code of Conduct for all parties, organisations, administrations and governments taking into account the Code of Conduct of the Peace Accord; and*
 - 4.2 *Appropriate compulsory sanctions/punitive measures against those who transgress the Code.*

5. *Any party organising a public demonstration or any other form of mass action must comply with the guidelines set out in paragraph 6.2 of the Fourth Report of the Technical Committee on Violence;*
6. *The National Peace Committee submit proposed amendments to the Regulation of Gatherings Bill as a matter of urgency;*
7. *A series of phased confidence-building measures which would include the future of all armed formations, their personnel and arsenals, be adopted leading to the creation of impartial, legitimate and effective security forces with the consequent dissolution of all other armed formations. A distinction (should) be drawn between statutory and non-statutory armies on the one hand and police forces on the other hand. The Technical Committee on the Transitional Executive Council and its sub-councils (should) make proposals and precise mechanisms (should) be adopted;*
8. *Parties between whom conflicts exist, which have contributed to violence, in addition to participating in the Multi-Party Negotiating Process, meet bi-laterally to seek joint solutions to the conflicts between them;*
9. *The principle of a independent peacekeeping force and its practical implementation should be considered by the Technical Committee on Violence in consultation with the Technical Committee on the Transitional Executive Council.*
10. *Every party to the Multi-Party Negotiating Process commits itself without reservation to a holding of a free and fair election and to do everything possible to ensure that the electorate and the leaders and candidates of political parties are enabled to conduct their election campaigns and other political activities freely without being intimidated are obstructed and without fear of being injured or killed;*
- 11.1 *The Technical Committee on Violence (should) prepare detailed proposals on the desirability, financing, establishment and composition of a Peace/ Youth Services Corps.*

11.2 *The National Peace Committee and members of the Technical Committee on Violence be entrusted with the initial drawing up of structures for a Peace Corps.*

(cf. Resolution 19, Addendum A, p50)

3.4 On the 22nd of June the Negotiating Council also adopted a Declaration on the Cessation/Suspension of Hostilities. Armed Struggle and Violence by general consensus. The relevant and operative part of the Declaration reads:

"Now Therefore Declare:

That as from the 22nd day of June 1993 we, the parties subscribing to this declaration, commit/recommit ourselves to peaceful resolution of conflict and, where applicable, cease/suspend any form of hostilities/armed/struggle/violence in pursuance of political objectives and in the resolution of political differences and further ensure that the conduct and utterances of all are consistent with this declaration."

(cf. Resolution 16, Addendum A, p47)

The implementation of the Declaration would be linked to the relevant sub-council of the Transitional Executive Council and to paragraph 7 of the Resolution on Conditions that should be created to eliminate violence adopted by the Negotiating Council on 22 June, 1993 (cf. Resolution 19, Addendum A, p50).

The Negotiating Forum is requested to ratify this Declaration.

- 3.5 The Negotiating Forum, it is recommended, should confirm Resolution 19 above, as well as the Declaration contained in Resolution 16.
- 3.7 It is finally recommended to mandate the Negotiating Council to instruct the Technical Committee to finalise all outstanding issues.
- 3.8 A schedule of the Reports of the Technical Committee and Resolutions taken by the Negotiating Council can be found in Addendum C, pp58-62.



SECTION THREE

4. Resolution on The Transition Process

4.1 The brief of the Negotiating Council was to consider and report on all matters arising from the Constitutional Report, including the following and other constitutional issues:

- * Form of State and Constitutional Principles
- * Constitution-Making Body/Constituent Assembly
- * Transitional/Interim Constitution
- * Transitional Regional/Local Government
- * Fundamental Human Rights during the Transition
- * Transitional Executive Council, its Sub-Councils, the Independent Elections Committee and the Independent Media Committee
- * Future of the TBVC States
- * Self-determination

4.2 The various issues were assigned to Technical Committees to prepare documentation for discussion in the Negotiating Council.

4.2.1 The following issues were assigned to separate Technical Committees:

4.2.1.1 Fundamental Rights during the Transition

4.2.1.2 Transitional Executive Council

4.2.1.3 Independent Media Commission and an Independent Broadcasting Authority

4.2.1.4 Repeal or Amendment of Legislation Impeding Free Political Activity and Discriminatory Legislation

4.2.1.5 The issues in 4.1 above were assigned to the Technical Committee on Constitutional Issues.

4.3 In its first report the Technical Committee on Constitutional Issues provided its preliminary analysis and recommendations on the Form of State, self-determination and other constitutional issues. The Technical Committee in subsequent reports suggested that the most constructive and systematic way of formulating an approach to these issues would be to:

4.3.1 Draft and agree upon justiciable constitutional principles which shall be binding upon the Constitution-Making Body;

- 4.3.2 Agree upon a constitution-making process. The Technical Committee identified two approaches in this regard from the submissions available to them:
- 4.3.3 Formulate and agree upon boundaries, powers, functions, structures, legislation, government for SPR's:
- 4.3.4 Formulate a Constitution for the transitional period to ensure constitutional continuity and provide the legislative framework for the functioning of a Constitution-Making Body with legislative power.
- 4.4 The Technical Committee has also been extremely helpful in providing and exploring a possible "equilibrium" or "bridge" between the two approaches to constitution-making.
- 4.5 The Technical Committee furthermore provided an analysis of asymmetry in a section of its third report.
- 4.6 A special report was provided on Confederation.
- 4.7 On the basis of the above reports and discussions and agreements thereon, the Technical Committee believed that the Form of State would evolve.
- 4.8 The Technical Committee constantly emphasised the linkages between the issues above and the need to take a holistic approach to them. It was requested to take note of the concern of all participants in formulating its reports.
- 4.9 An executive summary of the work of the Technical Committee and a schedule of its Reports to the Negotiating Council can be found in Addendum C, pp63-67.

5. **Recommendations to The Negotiating Forum**

The following are the recommendations of the Negotiating Council for adoption by the Negotiating Forum:

5.1 **Constitutional Principles:**

5.1.1 The Constitutional Principles agreed upon by the Negotiating Forum shall be **binding** on the Constitution-Making Body; the justiciability of these Constitutional Principles shall be ensured by a Constitutional Court/Tribunal.

5.1.2 The following are the Constitutional Principles for adoption by the Negotiating Forum, subject to paragraph 6 of the Explanatory

Memorandum adopted by the Negotiating Council on 30 April 1993
(cf. Resolution 7. Addendum A, p35)

- 2.1 *The Constitution of South Africa shall provide for the establishment of one sovereign state with a democratic system of government a common South African citizenship and a democratic system of government committed to achieving equality between men and women and people of all races.*
- 2.2 *The Constitution shall be the supreme law of the land, shall be binding on all organs of government, shall prohibit racial, gender and all other forms of discrimination and promote racial and gender equality and national unity.*
- 2.3 *There shall be a separation of powers between the legislature, executive and judiciary, with appropriate checks and balances to ensure accountability, responsiveness and openness.*
- 2.4 *The judiciary shall be competent, independent and impartial and shall have the power and jurisdiction to safeguard and enforce the constitution and all fundamental rights.*
- 2.5 *There shall be representative government embracing multi-party democracy, regular elections, universal adult suffrage, a common voters roll, and in general, proportional representation.*
- 2.6 *Provision shall be made for freedom of information so that there can be open and accountable administration at all levels of government.*
- 2.7 *Formal legislative procedures shall be adhered to by legislative organs at all levels of government.*
- 2.8 *The diversity of language and culture shall be acknowledged and protected, and conditions for their promotion shall be encouraged.*
- 2.9 *Collective rights of self-determination in forming, joining and maintaining organs of civil society, including linguistic, cultural and religious associations, shall, on the basis of non-discrimination and free association, be recognised and protected.*
- 2.10 *All shall enjoy universally accepted fundamental rights, freedoms and civil liberties, protected by entrenched and justiciable provisions in the constitution.*

- 2.11 *The legal system shall ensure the equality of all before the law and an equitable legal process. The principle of equality before the law includes laws, programmes or activities that have as their object the amelioration of the conditions of the disadvantaged, including those disadvantaged on the grounds of race, colour or gender.*
- 2.12 *The institution, status and role of Traditional Leadership, according to indigenous law, shall be recognised and protected in the Constitution. Indigenous law like, common law, shall be recognised and applied by the courts subject to the provisions of the fundamental rights contained in the Constitution and to legislation dealing specifically therewith.*
- 2.13 *Provision shall be made for participation of minority political parties in the legislative process in a manner consistent with democracy.*
- 2.14 *Amendments to the constitution shall require special procedures involving specified majorities.*
- 2.15 *Government shall be structured at national, SPR and local levels.*
- 2.16 *At each level of government there shall be democratic representation. This principle shall not derogate from the provisions of Principle 2.12.*
- 2.17 *Each level of government shall have appropriate and adequate legislative and executive powers and functions that will enable each level to function effectively. The allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and to effective public administration, and which promotes national unity, legitimate regional autonomy and cultural diversity.*
- [2.18 *The powers and functions of national and SPR governments shall be defined in the Constitution. Amendments to the Constitution which alter the powers, boundaries, functions or institutions of SPR's shall in addition to any other procedures specified in the Constitution for constitutional amendments, also require the approval of a specified majority of the legislatures of the SPR's, alternatively, if there is such a chamber, a specified majority of a chamber of parliament composed of regional representatives, and if the amendment concerns specific SPR's only, the approval of the legislatures*

of such SPR's will also be needed.

It was agreed that the Technical Committee explores the suggested amendments and reports back to the Negotiating Council.]

- 2.19 *A framework for local government powers, duties, functions and structures, shall be set out in the Constitution. The comprehensive powers, duties, functions and other features of local government shall be set out in parliamentary statutes and/or SPR legislation.*
- 2.20 *The powers and functions of the national and SPR levels of government shall include exclusive and concurrent powers as well as the power to perform functions for other levels of government on an agency or delegation basis.*
- 2.21 *National and SPR governments shall have fiscal powers and functions which will be defined in the Constitution. The framework for local government referred to in paragraph 2.19 shall make provision for appropriate fiscal powers and functions for different categories of local government.*
- 2.22 *Each level of government shall have a constitutional right to an equitable share of revenue collected nationally so as to ensure that SPR's and local governments are able to provide basic services and execute the functions allocated to them in the Constitution.*
- 2.23 *A Financial and Fiscal Commission, representing inter alia each of the SPR's, shall recommend equitable fiscal and financial allocations to the SPR governments from revenue collected nationally, after taking into account the national interest, disparities within the SPR's as well as the population and developmental needs, administrative responsibilities and other legitimate interests of each of the SPR's.*
- 2.24 *The following criteria shall be applied in the allocation of powers to the national government and the SPR governments:*

General:

- [2.24.1 The level at which there is most control over the quality and delivery of services, should be the level responsible and accountable for the execution of the programme or the delivery of the services.

This principle has not yet been accepted.]

2.24.2 *The national government shall not exercise its powers (exclusive or concurrent) so as to encroach upon the geographical, functional or institutional integrity of the SPR's.*

2.24.3 *Where it is necessary for the maintenance of essential national standards, the maintenance of economic unity, the maintenance of national security or the prevention of unreasonable action taken by one SPR which is prejudicial to the interests of another SPR or the country as whole, the constitution shall empower the national government to intervene through legislation or such other steps as may be defined in the constitution.*

2.24.4 *The essential principles of the constitution including the fundamental rights contained therein shall apply to all organs of the state at all levels of government.*

National Government

2.24.5 *Where there is necessity for South Africa to speak with one voice, or to act as a single entity - in particular in relation to other states - powers should be allocated to the national government.*

2.24.6 *Where uniformity across the nation is required for a particular function, then legislative power over that function should be allocated predominantly, if not wholly, to the national government.*

2.24.7 *Where minimum standards across the nation are required for the delivery of public services, the power to set such standards should be allocated to the national government.*

2.24.8 *The determination of national economic policies, and the power to promote inter-SPR commerce and protect the common market in respect of the mobility of goods, services, capital and labour, should be allocated to the national government.*

SPR Government

- [2.24.9 SPR governments shall have such powers, either exclusively or concurrently with the national government, as may be necessary, inter alia, for the purpose of regional planning and development, and the delivery of services and aspects of health, welfare and education, within their boundaries.

It was agreed that the Technical Committee reformulate this principle.]

Concurrent Powers

2.24.10 *Where mutual co-operation is essential or desirable or where it is required to guarantee equality of opportunity or access to a government service, the powers should be allocated concurrently to the national government and the SPR governments.*

2.24.11 *In the event of a dispute concerning the legislative powers allocated by the Constitution concurrently to the national and SPR governments which cannot be resolved by a court on a construction of the Constitution, precedence shall be given to the legislative powers of the national government.*

Residual Powers

2.24.12 *The Constitution shall specify how powers which are not specifically allocated in the constitution to the national government or to an SPR government, shall be dealt with as necessary ancillary powers pertaining to the powers and functions allocated either to the national or SPR governments.*

2.25 *Notwithstanding the provision of any other clause, the right of employers and employees to join and form employer organisations and trade unions and to engage in collective bargaining shall be recognised and protected.*

2.26 *The independence and impartiality of a Commission for Administration, a Reserve Bank, an Auditor general and an Ombudsman shall be provided for and safeguarded by the Constitution in the interests of the maintenance of effective public finance and administration and a high standard of professional ethics in the Civil Service.*

[It was suggested that the concept of the Attorney General be included within the principle. It was therefore referred back to the Technical Committee for this purpose.]

2.27 *Every member of the security forces (police, military and intelligence) and the security forces as a whole shall be required to perform his or her duties and functions and exercise his or her powers in the national interest and shall be prohibited from furthering or prejudicing party political interest."*

5.1.3 The following principle was proposed to the Negotiating Council but it was not agreed upon. It was agreed that this will be pursued in bilateral meetings.

"Nothing in the above Constitutional Principles shall prevent an SPR from democratically approving its own Constitution, which shall not be in conflict with the National Constitution."

5.1.4 After the following principle was put forward to the meeting for consideration "The right of self-determination of peoples, which allows them to determine their own political status through legislative and executive powers in the form of territorial independence and autonomy, is acknowledged", it was agreed that this whole issue be referred back to the Technical Committee.

5.2 **SPR's:**

5.2.1 That the Negotiating Forum confirms the establishment of a Commission on the Delimitation/Demarcation of SPR's, which shall report to the Negotiating Council (cf. Resolution 12, Addendum A, p41)

5.2.2 That the Constitutional Principles as stated above relating to SPR's are adopted as being binding on the Constitution-Making Body.

5.2.3 That the powers, functions, and structures of regions for the transition period shall be incorporated in the Constitution for the transition period.

5.2.4 That the election of Regional Legislatures and the establishment of Regional Governments in the transitional period shall be provided for in the Constitution for the transitional period.

5.3 Constitution for the Transition Period and the Constitution-Making Body:

That the Technical Committee shall draft a constitution for the transition period which shall make provision for:

5.3.1 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;

5.3.2 The election of regional legislatures and the establishment of regional governments in the transition;

5.3.3 The powers, functions and structures of regions for the transitional period;

5.3.4 Fundamental human rights on a justiciable basis during the transitional period;

5.3.5 A Constitutional Court/Tribunal to ensure the justiciability of the Constitutional Principles, of the fundamental rights and of the Constitution itself.

(cf. Diagrammatic representation of the envisaged process on p21 at the end of this section)

5.4 Fundamental Human Rights during the Transition:

The Negotiating Council has discussed five reports of this Technical Committee. The Technical Committee will take into account discussion and debate in the Negotiating Council and present a final report in due course. It is recommended that the Negotiating Forum ratifies this instruction.

An executive summary of the work of the Technical Committee and a schedule of its Reports to the Negotiating Council can be found in Addendum C, pp68-73.

6. Recommendations for Levelling the Playing Field and Promoting Conditions Conducive to the Holding of Free and Fair Elections

The following are the recommendations on these matters:

6.1 Independent Electoral Commission (IEC):

6.1.1 That the Negotiating Forum agrees in principle that an Independent Electoral Commission be established, whose object shall be to administer and conduct a free and fair democratic electoral process of the new Parliament/Constituent Assembly/SPR Governments, including responsibility for any other matter connected therewith (cf. Resolution 20, Addendum A, p52).

6.1.2 It is noted that a Draft Bill for the establishment of the Independent Electoral Commission is being prepared. The Technical Committee will also prepare an Electoral Act.

6.1.3 An executive summary of the work of the Technical Committee and a schedule of its Reports to the Negotiating Council can be found in Addendum C, pp74-80).

6.2 Independent Media Commission and Independent Broadcasting Authority:

6.2.1 That the Negotiating Forum agrees in principle that an Independent Media Commission be established with the following objectives:

6.2.1.1 To ensure equitable treatment of political parties by broadcasting services;

6.2.1.2 To ensure that State financed publications and State-information services are not used to advance the interest of any political party;

So as to contribute towards the promotion and creation of a climate favourable to free political participation and a free and fair election (cf. Resolution 18, Addendum A, p49).

6.2.2 It is noted that a Draft Bill for the establishment of the Independent Media Commission and for the Independent Broadcasting Authority has been prepared by the Technical Committee for consideration by the Negotiating Council.

6.2.3 An executive summary of the work of the Technical Committee and a schedule of its Reports to the Negotiating Council can be found in Addendum C, pp81-85.

6.3 Amendment or Repeal of Legislation Impeding Free Political Activity and Discriminatory Legislation:

The Negotiating Council has discussed two reports of this Technical Committee and has agreed that a "Higher Code" should be established to deal with this legislation. The Technical Committee will take into account discussion and debate in the Negotiating Council and present a final report in due course. It is recommended that the Negotiating Forum ratifies this instruction.

An executive summary of the work of the Technical Committee and a schedule of its Reports to the Negotiating Council can be found in Addendum C, pp86-89).

6.4 **Transitional Executive Council:**

6.4.1 It is recommended that the Negotiating Forum agrees to:

6.4.1.1 Instruct the Technical Committee on the Transitional Executive Council and its Sub-Councils to begin with the drafting of legislation on the basis of the framework presented in paragraph 1 of their First Report, thereby putting into one document all the provisions and present the Negotiating Council with draft legislation.

6.4.1.2 The establishment of a Transitional Executive Council in principle, in line with the Resolution on Steps to be Taken for the Purposes of Establishing a New Constitutional Order as adopted by the Negotiating Council on 30 June 1993. This is an in-principle decision and the details of the draft legislation will still have to be discussed.

6.4.2 An executive summary of the work of the Technical Committee and a schedule of its Reports to the Negotiating Council can be found in Addendum C, pp90-93.

7. **Recommendation on an Election Date**

7.1 On 7 May 1993 the Negotiating Council resolved to:

3.1 To reach agreements on binding constitutional principles, the constitutional framework and the constitution-making process in terms of which elections will be held;

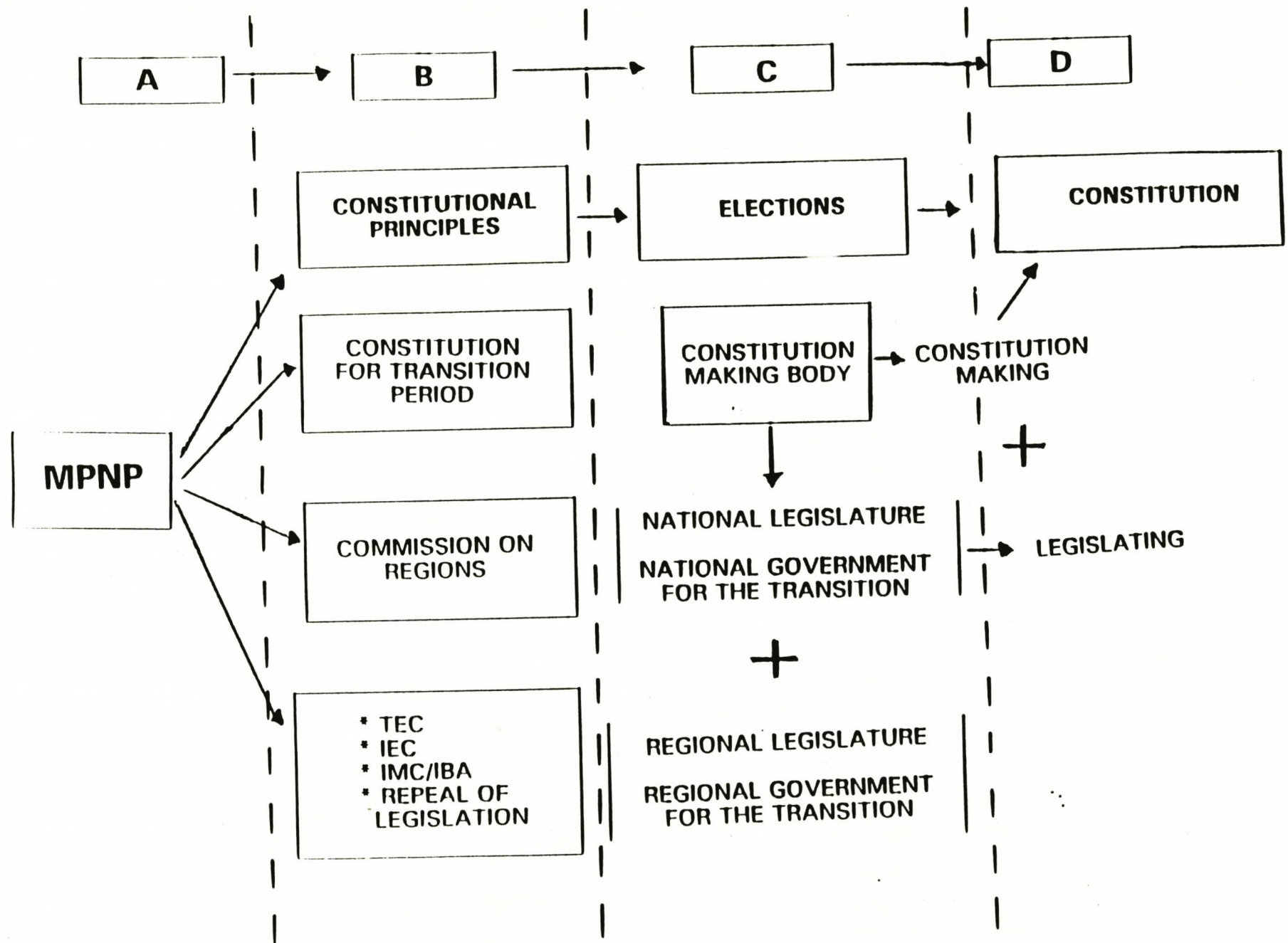
3.2 To provide for an adequate time-frame for the implementation of decisions on these matters and procedures for elections; and

3.3 To ensure that the negotiating process moves forward sufficiently over

the next four weeks at which stage to set the exact date for an election that should take place not later than the end of April 1994, subject to 3.1 and 3.2."

(cf. Resolution 13, Addendum A, p44)

- 7.2 On 3 June, 1993 the Negotiating Council resolved to recommend to the Negotiating Forum that the Negotiating Forum confirms that the election date shall be 27 April, 1994 (cf. Resolution 14, Addendum A, p45).



SECTION FOUR

9. Procedural Issues

9.1 Participation:

9.1.1 Background:

The Negotiating Council, in its meeting of 7 May 1993, agreed to the following recommendation of the Planning Committee:

"1. *Recommended Criteria and Process for New Participants:*

1.1 *Political Parties or Organisations to qualify must show:*

- * *That it is indeed a political party or organisation intending to participate as such (in the political party or organisation's own name) in the first election under a transitional/new constitution;*
- * *That it has proven substantial support in a national context;*
- * *That its admission will enhance the peaceful negotiating process.*

1.2 *Traditional Leaders*

The principle of provincial representation should be maintained for the time being, but the problems around the representivity of existing delegations should be addressed in consultation with and a manner acceptable to all concerned. This issue should be discussed in the meeting of the Negotiating Council and, if necessary, be referred back to the Planning Committee.

1.3 *Other Applicants*

It is proposed that applications of organisations who are not political parties or organisations, be refused.

1.4 *The problem of both the Administrations and political parties in one region participating in the Negotiating Process, has not been resolved and will require further attention."*

9.1.2 Process:

The following process for dealing with applications of political parties or organisations has been followed:

- * Applicants were informed of the criteria and requested to submit whatever facts and arguments they wish to, but they were required to at least respond to the questionnaire made available;
- * Administration caused a newspaper survey over the preceding year to establish the type of press coverage every applicant has received;
- * As soon as all the information had been received, the matter was put to the Negotiating Council for a decision.

9.1.3 Recommendations:

On the basis of the information received and processed and on the basis of the above criteria, it is recommended that the applications of the following parties be rejected:

- * People's Democratic Christian Party
- * United Federal Party
- * Sindawonye Progressive Party
- * Reform Party of South Africa
- * Insika National Party
- * National Forum
- * African Democratic Movement
- * People's Progressive Party
- * Merit People's Party
- * National Seoposengwe Party
- * Third Force Nationalist Party
- * Green Party of South Africa
- * Sofasonke Party
- * Free Cape Movement
- * United Asian Front

9.1.4 It should be noted that the Volks Unity Committee and the Christian Democratic Party withdrew their applications.

9.1.5 It should further be noted that discussions with the Afrikaner Freedom Foundation (Avstig) are still underway.

9.1.6 It is finally recommended that, notwithstanding the fact that the applications of these parties have been rejected, they are invited to

make submissions to the relevant Technical Committees/Commission if they so wish.

9.2 **Meetings Schedule:**

The Negotiating Council recommends that:

9.2.1 The Negotiating Forum mandates the Negotiating Council to finalise all matters it is instructed to:

9.2.2 No further Negotiating Forum meetings should be convened:

9.2.3 A Plenary should be convened by the Negotiating Council once final recommendations are available.

9.3 **Sufficient Consensus**

The Negotiating Council appointed an ad-hoc sub-committee to investigate the issue of sufficient consensus. This sub-committee has had one meeting and will report back to the Negotiating Council in due course. It has, however, agreed to come to an understanding that, until this issue is clarified and a new decision taken, the Standing Rules provide the mechanisms for taking decisions in the Multi-Party Negotiating Process.

9.4 **Name** (Minutes of the Negotiating Forum of 1 April 1993, par.4.2.2)

After numerous discussions and intensive debate, the Negotiating Council decided at its meeting of 7 May 1993 that this issue should be taken off the agenda until an appropriate time.

9.5 **The involvement of non-South Africans as advisers** (Minutes of the Negotiating Forum of 1 April 1993, par.4.3.3)

It was agreed that non-South Africans will not be allowed to be advisers to participants in the Multi-Party Negotiating Process.

9.6 **The role of the International Community** (Minutes of the Negotiating Forum of 1 April 1993, par.7.1)

No decision was taken in this regard, but there was a general feeling that this issue would best be handled around the elections and specifically in the Independent Electoral Commission.