

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

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 12H00 ON MONDAY 28 JUNE 1993 THROUGH TO THURSDAY 1 JULY 1993 AT THE WORLD TRADE CENTRE**

PRESENT : R Cronje  
C Eglin  
PJ Gordhan  
RP Meyer  
MC Ramaphosa  
J Slovo  
Z Titus (Chairperson by rotation)  
M Webb  
  
T Eloff (Administration)  
G Hutchings (Minutes)

**1. Moment of Prayer/Meditation**

A moment of prayer/meditation was observed by all members.

**2. Welcome and Attendance**

2.1 All members were welcomed.

2.2 Apologies were noted for non-attendance by B Alexander and FT Mdlalose.

2.3 Apologies were noted for the late arrival of PJ Gordhan and RP Meyer.

**3. Ratification of Agenda**

The agenda was ratified with no amendments.

**4. Minutes**

It was agreed to note the minutes of 14 June, 15 June, 17 June and 18 June 1993 and to deal with them at a future meeting of the Planning Committee.

## **Substantive Issues**

### **5.1 Structuring and order of the discussion of Reports from the Technical Committees for the Negotiating Council meetings during the week commencing 28 June 1993:**

5.1.1 It was agreed that the following Technical Committee Reports be dealt with at the meeting of 28 June 1993 in this order:

- \* The Independent Election Commission
- \* The Independent Media Commission
- \* The Amendment or Repeal of Legislation Impeding Free Political Activity and Discriminatory Legislation

5.1.2 It was agreed that the following Technical Committee Reports be dealt with at the meeting of 29 June 1993 in this order:

- \* Constitutional Issues
- \* The TEC and its Sub-Councils
- \* Fundamental Human Rights during the Transition.

5.1.3 It was agreed that the name "IMC and ITA" should be included on all future agendas of the Planning Committee.

### **5.2 Commission of Inquiry into the Attack on the Negotiating Process:**

5.2.1 The Sub-Committee was welcomed to the meeting. Apologies for non-attendance were noted on behalf of B Ngubane.

5.2.2 It was noted that the Goldstone Commission had been mandated by the State President to look into this issue.

5.2.3 The suggested Terms of Reference were distributed in the meeting (see Addendum A). It was noted that this document had not been distributed in the meeting of the Negotiating Council or adopted by the Negotiating Council.

5.2.4 Discussion and debate then proceeded on this issue. The following was noted:

5.2.4.1 The Sub-Committee was mandated to look into Item 7 of the suggested Terms of Reference with regard to the immediate security requirements of the process and submit recommendations to the Planning Committee. It was agreed that this is a matter of importance.

5.2.4.2 The Sub-Committee was further mandated to look into



this issue overall, including the relationship between the two Commissions and submit recommendations to the Planning Committee in this regard. When formulating the recommendations, the Sub-Committee was requested to take into account the discussion and views expressed on this issue in the Planning Committee and the Resolution on Condemnation and Outrage at the Violent Attack on the Negotiating Process as adopted by the Negotiating Council on 25 June 1993. The Sub-Committee should report back to the Planning Committee in the course of the afternoon when the Negotiating Council meeting adjourned for tea.

5.2.4.3 The Sub-Committee should also consider the suggested Terms of Reference for the Commission of Inquiry. A transcription of the Negotiating Council meeting of 25 June 1993 would be made available to the Sub-Committee by the Administration to assist in the fleshing out of the suggested Terms of Reference.

5.2.5 It was noted that with regard to the video tapes, the SAP had applied to have copies made, copies were made and the tapes would be handed over by the SABC to the Administration in the course of the day for safekeeping.

5.2.6 The Sub-Committee was thanked for its attendance and excused to proceed with its work.

### 5.3 **Voter Education:**

5.3.1 It was suggested that this issue be dealt with under the Independent Electoral Commission during the discussion on the Draft Bill.

The meeting adjourned at 13h15 for lunch and to then join the meeting of the Negotiating Council.

The meeting reconvened at 16h45.

### 5.4 **Commission of Inquiry into the Attack on the Negotiating Process:**

5.4.1 The Sub-Committee joined the meeting and gave a reportback.

5.4.2 In the course of its reportback the Sub-Committee recommended the following:

- 5.4.2.1 To request the Goldstone Commission to accommodate three to five persons as nominated by the Multi-Party Negotiating Process in its investigation;
- 5.4.2.2 To request that the Goldstone Commission simultaneously makes its recommendations available to the Negotiating Council;
- 5.4.2.3 If the above two proposals are accepted, to enquire as to whether the Goldstone Commission would be able to complete its inquiry within a number of weeks as stipulated by the Negotiating Council; if this is not possible, only then should the Negotiating Council consider a separate Commission.

These recommendations were in respect of Items 1 to 5 of the suggested Terms of Reference (see Addendum A).

- 5.4.3 With regard to Item 6 of the suggested Terms of Reference, it was recommended that this item be covered by the SAP Inquiry.
- 5.4.4 With regard to Item 7 of the suggested Terms of Reference, the following recommendations were noted:

The Multi-Party Negotiating Process should appoint its own Commission/Committee/Task-Group (composed of approximately five persons) to deal with this issue and to find out what the situation on the ground is, to find out what is needed, to find out what the threat is to the World Trade Centre and to submit recommendations on what should be done and to proceed with the implementation of the recommendations (subject to ratification) as it proceeds. This should all be done before 2 July 1993. The Planning Committee should receive a day to day progress report on this issue and the Planning Committee should report to the Negotiating Council as and when necessary.

- 5.4.5 It was further suggested that the three to five persons to be appointed to serve on the Goldstone Commission should serve as a linkage between that Commission and the investigation to be conducted by the Multi-Party Negotiating Process.
- 5.4.6 It was suggested that the Sub-Committee or the Planning Committee meet personally with Judge Goldstone due to the urgency of this issue.
- 5.4.7 After further discussion and debate, it was agreed that:
  - 5.4.7.1 The Sub-Committee was mandated to explore the above



recommendations with the Goldstone Commission;

5.4.7.2 The Sub-Committee immediately considers the issue of security at the World Trade Centre and report back to the Planning Committee in this regard;

5.4.8 It was suggested that the Commissioner of the SAP should meet with the Sub-Committee.

**The Planning Committee meeting reconvened on Tuesday 29 June 1993 at 09h10. D de Villiers was present as the incoming Chairperson of the Negotiating Council.**

## **6. Agenda of the Planning Committee**

It was agreed to add an Item 6.6 to read "SA Government Statement with regard to the PAC".

## **7. Procedural Issues**

### **7.1 Letter from the Technical Committee on the IEC:**

It was agreed that Advocate HR Laubscher remains on the Technical Committee on the IEC.

### **7.2 Letter of resignation from F Cachalia, Technical Committee on Constitutional Issues:**

7.2.1. The letter was noted and receipt thereof should be acknowledged by the Administration, thanking F Cachalia for his services.

7.2.2 It was agreed not to replace F Cachalia on the Technical Committee.

### **7.3 Role of the International Community:**

This issue would be dealt with when the reports for the Negotiating Forum meeting were compiled. It was generally agreed that this role would emerge as the IEC commenced with its work.

### **7.4 Composition of the Planning Committee:**

7.4.1 The application of the PAC to replace B Alexander with J Seroke was discussed further.

7.4.2 It was agreed to not replace B Alexander as each member of the

Planning Committee was appointed in his personal capacity.

- 7.4.3 It was agreed that the Administration should respond accordingly to the letter from the PAC.

**8. Commission of Inquiry into the Attack on the Negotiating Process**

- 8.1 The Sub-Committee was welcomed to the meeting and gave a progress report to the meeting. This included a reportback on the meeting held with Judge Goldstone.
- 8.2 Various questions were then put to the Sub-Committee. Discussion followed.
- 8.3 It was noted that:
- 8.3.1 The suggested Terms of Reference of the Commission of Inquiry of the Multi-Party Negotiating Process could be linked up with the Terms of Reference of the Goldstone Commission;
- 8.3.2 The Negotiating Council could list further issues that it required to be investigated by the Goldstone Commission;
- 8.3.3 The Goldstone Commission would report back directly to the Negotiating Council on those issues as listed by the Negotiating Council;
- 8.3.4 It was suggested that the appointment of a further Commission would be a duplication exercise;
- 8.3.5 There is an ongoing overlap with regard to security at the World Trade Centre between the SAP and the Multi-Party Security. The question was raised as to what arrangements should be made to accommodate and to take this into account;
- 8.3.6 It was suggested that the investigation of the Multi-Party Negotiating Process should deal with the immediate and ongoing security arrangements (as referred to in Item 7 of the suggested Terms of Reference - see Addendum A);
- 8.3.7 It was suggested that Judge Goldstone should be approached to appoint two assessors on his Commission, appointed by the Negotiating Council.
- 8.4 It was agreed that the Sub-Committee should look into the issue of possible assessors to be added to the Goldstone Commission and submit recommendations on the number and possible nominees to the Planning



Committee;

- 8.5 It was suggested that the Planning Committees considers meeting with Judge Goldstone.
- 8.6 With regard to the issue of security at the World Trade Centre, it was agreed that the Sub-Committee submits recommendations in this regard. The recommendations should encompass suggestions on who should be responsible for this issue.
- 8.7 On Items 1 - 6 of the suggested Terms of Reference (see Addendum A), the assessors would work in conjunction with the Goldstone Commission.
- 8.8 It was agreed that the Sub-Committee submits a written report to the Planning Committee on all these issues.
- 8.9 It was agreed that with regard to Item 8 of the suggested Terms of Reference (see Addendum A), that the sentence should end after the word "venue".

#### **9. Meeting of the Negotiating Council of 29 June 1993**

- 9.1 The Negotiating Council meeting would deal with the Report from the Technical Committee on the Amendment or Repeal of Discriminatory Legislation.
- 9.2 It was agreed to recommend to the Negotiating Council that as soon as this discussion was completed, that the Seventh Report of the Technical Committee on Constitutional Issues would be ready at approximately 11h00, that the meeting then adjourn for an early and extended lunch to allow all participants enough time to study the report. Constitutional Issues would then be dealt with for the whole afternoon.

The meeting adjourned at 10h20 to join the meeting of the Negotiating Council with the suggestion that the meeting reconvene at 16h00 to deal with any urgent outstanding matters.

**The meeting reconvened on 30 June 1993 at 09h00.** Apologies for late arrivals were noted by PJ Gordhan and C Ramaphosa.

#### **10. Meetings Schedule**

- 10.1 The meetings schedule as amended was agreed to (see Addendum B).
- 10.2 It was noted that all participants should receive all documentation timeously so that the Negotiating Council begins its work immediately on Monday 19

July 1993. The deadline agreed upon was 14 July 1993.

**11. Logistics for the meeting of the Negotiating Forum**

11.1 It was agreed that the meeting of the Negotiating Forum be held in the centre court.

**11.2 Report to the Negotiating Forum:**

11.2.1 It was agreed to mandate the Sub-Committee to begin with the preparation of the Report taking into account progress so far achieved.

11.2.2 The report should encompass the progress of all the Technical Committees.

11.2.3 A first draft should be ready for the attention of the Planning Committee on 1 July 1993.

11.2.4 It was agreed that a brief meeting of the Negotiating Council be convened on Friday 2 July 1993 for the Planning Committee to present the Report to the Negotiating Council.

11.2.5 It was agreed that the Sub-Committee also prepares a draft agenda for the meeting of the Negotiating Forum.

11.2.6 An internal logistics report would be submitted to the Planning Committee members during the course of the day. The Administration was instructed to keep the Planning Committee members informed in this regard.

11.2.7 It was agreed that the Negotiating Council meeting of 1 July 1993 only commence at 10h00 due to the need for a further meeting of the Planning Committee before the meeting of the Negotiating Council. It was agreed that the Planning Committee meeting would commence at 08h45 for 09h00.

**12. Assessment of the Process**

12.1 Discussion and debate on this issue and the work of the Negotiating Council followed. The draft resolution as proposed in the meeting of the Negotiating Council of 29 June was referred to.

12.2 It was agreed:



- 12.2.1 To convene the meeting of the Negotiating Council;
- 12.2.2 That the Negotiating Council Chairperson reports to the Negotiating Council that a Planning Committee meeting had been held and discussion had taken place with regard to the proposed resolution. Furthermore, that requests from various parties that bi-laterals should be held to facilitate progress on the issues raised by the proposed resolution had been considered;
- 12.2.3 To recommend that the Fourth Report of the Technical Committee on Constitutional Issues be discussed;
- 12.2.4 To recommend that, after the discussion of the Fourth Report, the Negotiating Council meeting adjourn for approximately 2 hours for bilateral meetings to facilitate progress on constitutional issues.

### **13. Co-ordination of the Work of the Technical Committees**

It was agreed to mandate the Sub-Committee to meet with the convenor of each Technical Committee or a representative thereof and go into the following issues:

- \* Co-ordination between Technical Committees;
- \* How overlaps should be dealt with;
- \* How to deal with and the need for consistent drafting.

It was suggested that this meeting could possibly take place on 5 July 1993.

The meeting adjourned at 10h20. It was suggested that the Planning Committee reconvenes just before the Negotiating Council meeting reconvenes after lunch.

The meeting reconvened at 16h55.

### **14. Constitutional Issues**

14.1 The Planning Committee was mandated by the Negotiating Council to, draft in conjunction with the Technical Committee on Constitutional Issues, a proposed resolution emerging from the bilaterals held during the course of the day between the various groupings. The resolution should address the various concerns raised during the bilateral meetings.

14.2 The Technical Committee on Constitutional Issues was welcomed.

- 14.3 A proposed draft resolution was distributed. Discussion and debate followed.
- 14.4 Embodied in the proposed draft resolution would be instructions for the Technical Committee to proceed with its work. All participants would be invited to make submissions on the drafting of the Constitution and any outstanding constitutional issues. It was agreed that the deadline for submissions to the Technical Committee should be 12 July 1993 at 17h00. It was agreed that the current Negotiating Council Chairperson PJ Gordhan should make an announcement in this regard in the Negotiating Council meeting.
- 14.5 It was agreed that the Sub-Committee, taking into account all the views and concerns expressed and against the background of the bilateral meetings held during the course of the day, should redraft the proposed resolution for presentation in the Negotiating Council. The Sub-Committee was released from the meeting at this point.
- 14.6 The Technical Committee stated that the draft Constitution should be ready by the middle of August. Concerns were expressed in this regard. An appeal was made to the Technical Committee to attempt to have a draft before the Negotiating Council earlier, i.e before the end of July 1993.
- 14.7 It was noted that the Fifth Report of the Technical Committee on Constitutional Issues provided a framework for the draft Constitution. The Technical Committee requested that the Negotiating Council debates and discusses this Report and answers the questions noted to facilitate its work. It was agreed that when the Negotiating Council meeting reconvened, the Fifth Report be tabled, but discussion on the Report would take place only at the next meeting of the Negotiating Council on 1 July 1993.
- 14.8 The Technical Committee was informed of the decision with regard to the co-ordination of work between the Technical Committees (see Item 13.1 above).
- 14.9 It was noted that during the process of drafting the Constitution, various sections could be put before the Negotiating Council for discussion, so as to not delay the process.
- 14.10 It was agreed that each Technical Committee dealing with legislation should be formally notified that Parliament was scheduled to reconvene on 13 September 1993.
- 14.11 It was suggested that continued bilaterals would facilitate the process of the drafting. It was further suggested that the Planning Committee applies its mind as to how it programmes its work and the work of the Negotiating Council in order to best facilitate the drafting process.
- 14.12 At this point the Technical Committee was released from the meeting. It was



noted that the Third Supplementary Report on the Constitutional Principles would be completed by the end of the day.

**15. Commission on Inquiry into the Attack on the Negotiating Process**

15.1 It was noted that the SAP would like to give delegates who were assaulted/robbed by the AVF Demonstrators an opportunity to make statements should they so wish.

15.2 It was agreed that the current Negotiating Council Chairperson would inform the Negotiating Council that the Planning Committee recommends that, should any delegate wish to make such a statement, they file their names with the Administration and the Administration would channel the names to the SAP.

**16. PAC Demonstration**

It was noted that Z Titus had received the memorandum from the PAC Demonstrators. Copies thereof would be distributed at the next meeting of the Planning Committee by the Administration.

**17. The Meeting of the Negotiating Forum**

It was agreed that the Technical Committees should all be present at the meeting of the Negotiating Forum on 2 July 1993. The Administration should notify them accordingly.

The meeting adjourned at 18h10.

The meeting reconvened at 19h00.

**18. Constitutional Issues**

18.1 The proposed draft resolution as amended was noted and would be placed before the Negotiating Council for adoption (see Addendum C).

18.2 M Webb notified the meeting that he needed to consult on this issue but was not going to obstruct the process.

The meeting adjourned at 19h20. It was agreed that the Planning Committee meeting reconvenes at 09h00 on Thursday 1 July 1993.

The meeting reconvened at 09h15 on 1 July 1993. Apologies were extended on behalf of PJ Gordhan for late arrival.

**19. Further Agenda for the meeting of the Planning Committee having started on Monday 28 July 1993 (see Addendum D)**

The agenda was ratified with the following amendment:

- \* The addition of an Item 7 to read "Negotiating Council Agenda".

The subsequent numbering was amended accordingly.

**20. Ad-hoc Committee on Sufficient Consensus**

- 20.1 It was noted that the Committee had had a preliminary discussion but no follow up meeting as yet.
- 20.2 It was noted that the Ad-hoc Committee had agreed that the work of the negotiating process should, in the meantime, abide by the current decision-making procedures and that the Standing Rules still apply.
- 20.3 It was further noted that it had been suggested that the whole question of the chairing of the Negotiating Council meetings should be looked into.
- 20.4 It was noted that the Administration would keep the Planning Committee informed of the progress of the Ad-hoc Committee.

**21. SA Government/PAC Issue**

- 21.1 A reportback on this issue was given by R Meyer. Encompassed in the reportback were various suggestions on what the Negotiating Council should do with regard to the non-compliance of the PAC with the Declaration on the Cessation/Suspension of Hostilities, Armed Struggle and Violence. Discussion and debate followed.
- 21.2 It was agreed:
  - \* To note the concern of the Planning Committee with regard to the reaction of the PAC to the Declaration that was adopted by all other participants in the negotiating process;
  - \* That the Planning Committee was at this point unable to adopt a final stand on this issue;



- \* That the Planning Committee would like to set in motion a process of consultation with a view to solving and attending to this matter in a constructive way.

21.3 It was noted that, although the Planning Committee sympathised with R Meyer on this issue, an appeal was made to him to not take any formal steps against the PAC in the Negotiating Council until informal discussion had taken place with the PAC. R Meyer agreed to leave the matter in abeyance for the time being, but stated that no report should be made to the Negotiating Council until the Planning Committee had revisited the issue and that a recommendation in this regard should be made to the meeting of the Negotiating Forum on 2 July 1993.

**22. Commission of Inquiry into the Attack on the Negotiating Process and the Security Report**

- 22.1 The Sub-Committee was welcomed. A reportback was given by the Sub-Committee on these issues.
- 22.2 It was agreed to mandate the Sub-Committee to oversee all the short-term security arrangements at the World Trade Centre and reportback to the Planning Committee as and when necessary.
- 22.3 It was noted that the Sub-Committee was working on the long term security issues. It was agreed to mandate the Sub-Committee to continue its work on this issue and reportback to the Planning Committee in due course.
- 22.4 It was agreed that the first four points of the List of Points to be referred for consideration by an MPNP Committee/Commission or the Goldstone Commission should be attended to by the Sub-Committee (see Addendum E).
- 22.5 It was agreed that points a - g (see Addendum E) should be forwarded to the Goldstone Commission. The Sub-Committee was mandated to liaise with Judge Goldstone in this regard.
- 22.6 The question of assessors seconded from the negotiating process was again raised.
- 22.7 After further discussion it was agreed that the Sub-Committee submits in writing a report to the Planning Committee on these issues.

## **23. Participation**

### **23.1 Avstig:**

- 23.1.1 A progress report was given by the Sub-Committee in this regard. It was noted that the Sub-Committee had had a further meeting with Avstig.
- 23.1.2 It was noted that based on these discussions, the Sub-Committee was still of the view that Avstig was not a political party.
- 23.1.3 It was noted that Avstig requested a meeting with the Planning Committee.
- 23.1.4 It was agreed that all documents from Avstig, supporting its claim, would be made available to the Planning Committee by the Sub-Committee.
- 23.1.5 It was agreed that the Sub-Committee should engage in further discussions with Avstig.

### **23.2 ADM:**

- 23.2.1 A progress report was given by the Sub-Committee in this regard. It was noted that the Sub-Committee had had a further meeting with the ADM and that they were insisting to be admitted to the process.
- 23.2.2 After discussion it was agreed by sufficient consensus to recommend to the Negotiating Council that this application be turned down.
- 23.2.3 M Webb objected to this decision.

## **24. Negotiating Council Agenda**

The agenda for the meeting of the Negotiating Council of 1 July 1993 was approved of (see Addendum F).

The meeting adjourned at 10h30 to join the meeting of the Negotiating Council.

The meeting reconvened at 14h10.



## **25. Participation**

25.1 The following was recommended by the Sub-Committee:

- 25.1.1 That a letter be written to Avstig stating that their application is still under consideration and their concerns have been noted. Furthermore, that they are welcome to make submissions to Technical Committees where they consider it necessary. It was noted that the Sub-Committee, due to time constraints, had been unable to have a meeting with Avstig before the meeting of the Negotiating Forum. This was agreed to.
- 25.1.2 With regard to the Free Cape Movement, only a letter of application had been received from them. The Administration would forward the questionnaire to them and await a response. This was agreed to.
- 25.1.3 With regard to Sofasonke that their application be turned down. It was agreed to make this recommendation to the Negotiating Council.
- 25.1.4 That all parties that had applied to the join the negotiating process be invited to make submissions to the relevant Technical Committees if they so wished. This was agreed to.

25.2 It was noted these issues would be encompassed in the report of the Negotiating Council to the Negotiating Forum meeting.

## **26. Logistics for the Forum**

- 26.1 A document distributed earlier during the course of the day to Planning Committee members was referred to and discussed in conjunction with a reportback from the Administration.
- 26.2 It was noted that D de Villiers would not be present at the meeting and would therefore be unable to chair part of the Negotiating Forum meeting.
- 26.3 It was agreed that women should act as assistant Chairpersons. The relevant delegations that are scheduled to assist the Chairpersons should be approached on this issue.
- 26.4 It was agreed to recommend to the Negotiating Council that the Negotiating Forum should delegate its powers to the Negotiating Council as this structure (the Negotiating Forum) had become superfluous.
- 26.5 The draft agenda was discussed. It was agreed to finalise this issue after the

framework of the report to the Negotiating Forum had been decided upon.

- 26.6 It was agreed that members of the Planning Committee, R Cronje and PJ Gordhan, be mandated to draft the report to the Negotiating Forum. It was noted that various members of the Planning Committee would be called upon to draft different sections of the report. R Cronje and PJ Gordhan would also co-ordinate putting together of the various draft sections. They would be assisted by the Administration.

**27. SA Government/PAC Issue**

- 27.1 R Meyer again requested that this issue be dealt with before the close of the day.

- 27.2 After further discussion it was agreed that R Cronje, C Eglin and PJ Gordhan meet with the PAC and put the following issues in the meeting:

- \* That the SA Government is putting pressure on members of the Planning Committee, as the SA Government wants certain actions to be taken;
- \* The Planning Committee had requested the SA Government to hold back on its actions until Planning Committee members had had an opportunity to discuss the issue with the PAC in an attempt to find a way out of this situation.

It was agreed to revisit this issue when the Planning Committee meeting reconvened.

**28. Meetings Schedule**

The meetings schedule was approved (see Addendum G).

**29. Technical Committee on the TEC and its Sub-Councils**

- 29.1 It was agreed that this Technical Committee should table and present its report in the Negotiating Council at 17h00.
- 29.2 It was suggested that it was necessary to have an agreement in principle on the TEC.
- 29.3 It was suggested that on the basis of the Resolution on Steps to be Taken for the Purposes of Establishing a New Constitutional Order as adopted by the Negotiating Council meeting of 30 June 1993 (see Addendum H), the Technical Committee, without binding any participant, be instructed to



proceed with the preparation of a draft bill which the Negotiating Council could consider when it returned after the two week break in July 1993.

The meeting adjourned at 14h40 to join the meeting of the Negotiating Council. The Sub-Committee requested that the Planning Committee reconvenes at 16h00 to receive a report on Security and on the Commission of Inquiry into the Attack on the Negotiating Process.

The meeting reconvened at 16h45.

### **30. Constitutional Issues**

30.1 The Planning Committee had been instructed by the Negotiating Council to meet with the KP on the issue of Self-Determination and to make recommendations as how best to accommodate a discussion on this issue in the Negotiating Council. This was done against the background that Item 2.9 of the Constitutional Principles was unacceptable to the KP.

30.2 After discussion it was agreed to recommend to the Negotiating Council, through the current Planning Committee Chairperson, PJ Gordhan, that:

\* The KP table the following as a proposed additional Constitutional Principle to the Negotiating Council:

"The right of self-determination of peoples is acknowledged, which allows them to determine their own political status through legislative and executive powers in the form of territorial independence and autonomy."

The Negotiating Council should then process this proposed Constitutional Principle as it deems fit.

30.3 The Technical Committee should make a recommendation on how this issue should be dealt with.

The meeting adjourned at 17h05 to rejoin the meeting of the Negotiating Council.

The meeting reconvened at 22h15.

### **31. Commission of Inquiry into the Attack on the Negotiating Process**

31.1 The Sub-Committee presented a report to the Planning Committee. The report and the recommendations as stated were agreed to (see Addendum I).

- 31.2 It was agreed that the Goldstone Commission should release its report simultaneously to the Negotiating Council.
- 31.3 It was agreed that this issue does not need to come before the meeting of the Negotiating Forum.
- 31.4 It was agreed that the Administration should notify participants that the Goldstone Commission was scheduled to have hearings on Wednesday at the World Trade Centre.

**32. SA Government/PAC Issue**

- 32.1 PJ Gordhan gave a reportback on the informal discussions held with the PAC. The following was noted:
  - 32.1.1 That the complaint of the PAC that the SA Government was not attending to matters that had been agreed upon should be fully documented and given to the Planning Committee in writing.
  - 32.1.2 That, in relation to the implementation of the Declaration, the PAC should set out in writing how it saw this process. This would be compared as to how the SA Government saw the process.
  - 32.1.3 The idea of a mediator was suggested.
- 32.2 It was agreed that a formal letter be written by R Cronje, C Eglin and PJ Gordhan on behalf of the Planning Committee to the PAC requesting the above documents by 09h30 on Friday 2 July 1993. This letter should be signed by Z Titus, the current Planning Committee Chairperson.

**33. Participation**

It was noted that the Sub-Committee, in conjunction with the Administration, would prepare a report for the Negotiating Forum in this regard.

**34. Proposal for Chairing of and the Assistants to the Chairpersons for the Negotiating Forum Meeting**

The proposal as suggested was approved of (see Addendum J).



**35. Financial Matters**

**35.1 Application for Financial Assistance for the PAC:**

It was agreed that this request be turned down.

**35.2 Remuneration for expert : IEC Technical Committee:**

35.2.1 It was agreed that the Sub-Committee should go into this issue and submit a report to the Planning Committee.

35.2.2 It was agreed that for future reference Technical Committees should seek approval beforehand on this type of issue. The Administration is to notify all Technical Committees accordingly.

**35.3 Application for per diem allowances for delegates of the Cape Traditional Leaders:**

It was agreed that this request be turned down.

**36. Memoranda from Demonstrating Organisations**

**36.1 PAC Campaigns Committee:**

It was agreed to note this memorandum.

**36.2 Afrikaner Volksfront:**

It was agreed to note this memorandum but not to distribute it in the Negotiating Council.

**36.3 Transvaal Rural Action Committee:**

It was agreed to note this memorandum and distribute it in the Negotiating Council.

**36.4 PAC of Azania:**

It was agreed to note this memorandum and distribute it in the Negotiating Council.

37. **Requests for Meetings**

37.1 National Economic Forum:

It was agreed that the Administration set up a meeting with this Forum at a suitable time and communicate in the appropriate way. Furthermore, that this issue should appear on the next agenda of the Planning Committee.

37.2 Local Government Negotiating Forum:

It was agreed that the Administration set up a meeting with this Forum at a suitable time and communicate in the appropriate way. Furthermore, that this issue should appear on the next agenda of the Planning Committee.

38. **Report to the Planning Committee re Demonstrations by the PAC of Azania**

It was agreed to note this report (see p26 of the pack of additional documentation for the meeting of the Planning Committee continued on Thursday 1 July 1993).

39. **Agenda for the meeting of the Negotiating Forum on 2 July 1993**

The proposed agenda was approved of (see Addendum K).

The meeting adjourned at 22h30.

These minutes were ratified at the meeting of the Planning Committee of 26 July 1993 and the amended version signed by the Chairperson of the original meeting on ... 3 August 1993

  
.....  
CHAIRPERSON



The Negotiating Council resolves to establish as Commission of ten (10) persons to investigate and report on the demonstration and criminal acts committed by the AVF and the AWB at the World Trade Centre on 25 June 1993.

The Commission shall endeavour to complete its investigation within one week. It shall thereupon report to the Negotiating Council, which shall decide what action should be taken.

The Terms of Reference of the Commission shall be:

1. To investigate, enquire into and report fully on the incident involving the AVF and AWB members and which took place at the World Trade Centre on the 25th of June 1993;
2. To investigate the role of the South African Police and other security forces before, during and after the AVF and AWB demonstration and to advise whether appropriate and adequate action was taken by them before, during and after the incident;
3. To establish what intelligence/information was available to the SAP, its intelligence arm, the SADF, the N.I.S. and any other relevant government agency on the incident before, and after it took place;
4. To establish the identity of those who committed criminal acts prior to, during the course of, and after, the incident;
5. To investigate the role of the CP before, during and after the demonstration and also to report on the information which it had thereon at anytime prior thereto;
6. To determine what legal and other steps should be taken in the light of the five facts to be presented at the inquiry and also to report on any other legal proceedings which may have to be instituted in connection with the incident and also on any other steps which may already have been taken by the appropriate authorities; and
7. To determine what measures need to be taken to ensure the impartiality of the security, to tighten security arrangements, to properly equip the security personnel and, to advise on what human and material resources are required to secure the World Trade Centre.
8. If the security of the delegates at the World Trade Centre cannot be guaranteed for whatever reason, to advise on the feasibility of moving the negotiations to an alternative venue inside or outside South Africa.
9. To make recommendations on the conduct of demonstrations at or near the World Trade Centre and the guidelines to be applied thereupon.
10. To make recommendations, where necessary on the security arrangements for delegates at their respective places of residence in Johannesburg.



## REVISED PROPOSED SCHEDULE OF MEETINGS

30 JUNE 1993

Negotiating Council	Wednesday 30 June 1993	08h30 - 18h30
Negotiating Council	Thursday 1 July 1993	08h30 - 18h30
<b>NEGOTIATING FORUM</b>	Friday 2 July 1993	10h00 - 17h30

Technical Committees to do detailed work	Monday 5 July 1993 to Friday 16 July 1993
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Delegates receive available Reports of Technical Committees (and outstanding minutes)	Thursday 15 July 1993	Before 17h00
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Planning Committee	Monday 19 July 1993	08h30 - 11h00
Negotiating Council	Monday 19 July 1993	11h00 - 19h00
Negotiating Council	Tuesday 20 July 1993	09h30 - 19h00
Negotiating Council	Wednesday 21 July 1993	09h30 - 19h00

Planning Committee	Monday 26 July 1993	08h30 - 10h30
Negotiating Council	Monday 26 July 1993	10h30 - 19h00
Negotiating Council	Tuesday 27 July 1993	09h30 - 19h00
Negotiating Council	Wednesday 28 July 1993	09h30 - 19h00
Negotiating Council	Thursday 29 July 1993	09h30 - 19h00
Negotiating Council	Friday 30 July 1993	09h30 - 17h00

**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.**



**DRAFT RESOLUTION ON STEPS TO BE TAKEN FOR THE  
PURPOSES OF ESTABLISHING A NEW CONSTITUTIONAL ORDER  
PRESENTED TO THE NEGOTIATING COUNCIL ON 30 JUNE 1993**

1. The Negotiating Council agrees on the following steps to be taken for the purposes of establishing a new constitutional order:
  - 1.1 The MPNP shall adopt the Constitutional Principles, including principles of regional government, providing for both strong regional government and strong national government;
  - 1.2 The Constitutional Principles shall be binding on the Constitution-Making Body and shall be justiciable by a Constitutional Court/Tribunal;
  - 1.3 The Commission on Delimitation/Demarcation appointed by the MPNP will make recommendations to the MPNP on regional boundaries for the purposes of elections and regional government for the transitional phase;
  - 1.4 The MPNP shall agree on legislation to make provision for the following structures for the purpose of levelling the playing field and promoting conditions conducive to the holding of free and fair elections:
    - 1.4.1 A Transitional Executive Council;
    - 1.4.2 An Independent Electoral Commission;
    - 1.4.3 An Independent Media Commission and an Independent Broadcasting Authority;
  - 1.5 The MPNP shall agree on details of discriminatory legislation to be repealed;
  - 1.6 The MPNP shall agree on a Constitution for the transitional period;
2. The Negotiating Council accordingly requests 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 governments 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;
- 3. Participants are given until the 12th of July 1993, to make further inputs to the Technical Committee with regard to the above draft Constitution for the transition.
  - 4. This is agreed against the background of paragraph 6 of the Explanatory Memorandum adopted by the Negotiating Council on 30 April 1993.



**FURTHER AGENDA FOR THE MEETING OF THE PLANNING COMMITTEE  
HAVING STARTED ON MONDAY 28 JUNE 1993 AND CONTINUING ON  
THURSDAY 1 JULY 1993**

Chair: Z Titus

1. Moment of Prayer/Meditation
2. Welcome and attendance
3. Ratification of agenda
4. **Substantive issues**
  - 4.1 Commission of Inquiry
  - 4.2 Security Report
  - 4.3 SA Government and PAC -issue
5. **Procedural Issues**
  - 5.1 Participation
    - 5.1.1 Avstig
    - 5.1.2 ADM
6. **Administrative issues**
  - 6.1 Logistics for the Forum
  - 6.2 Financial matters
    - 6.2.1 Per diem allowance application
7. Meetings schedule
8. Closure



**LIST OF POINTS TO BE REFERRED FOR CONSIDERATION  
BY AN MPNP COMMITTEE/COMMISSION OR  
THE GOLDSTONE COMMISSION**

**Still to be approved (prepared solely for debating purposes by the Planning Committee)**

1. To determine what measures need to be taken to tighten security arrangements, to ensure the impartiality of the security personnel and to properly equip the security personnel, and to advise on what human and material resources are required to secure the World Trade Centre;
2. If the security of the delegates at the World Trade Centre cannot be guaranteed, for whatever reason, to advise on the feasibility of moving the negotiations to an alternative venue;
3. To make recommendations on the conduct of demonstrations at or near the World Trade Centre and the guidelines to be applied thereanent; and
4. To make recommendations, where necessary, on the security arrangements for delegates at their respective places of residence whilst in Johannesburg.
  - a. To investigate, enquire into, and report fully on, the incident involving the AVF and AWB members and which took place at the World Trade Centre on the 25th of June 1993 and, more specifically, also on the manner in which the individuals concerned gained entry into the World Trade Centre;
  - b. To consider the extent to which the conditions set by the Kempton Park City Council for the holding of the demonstration and the Negotiating Council guidelines on demonstrations were violated or breached;
  - c. To investigate the role of the CP before, during and after the demonstration, and also to report on the information which it had thereon at anytime prior thereto and during the course thereof;
  - d. To investigate the role of the South African Police and other security forces before, during and after the AVF and AWB demonstration and to advise whether appropriate, adequate and acceptable action was taken by them before, during and after the incident;
  - e. To establish what intelligence or information was available to the SAP, its intelligence arm, the SADF, the N.I.S. and any other relevant government agency on the incident before, during and after it took place;
  - f. To establish the identity of those who committed criminal acts during the course of the incident; and



g.

To determine what legal and other steps should be taken in the light of the facts to be presented at the inquiry, to report on any other legal proceedings which may have to be instituted in connection with the incident and also on any other steps (legal or otherwise) which may already have been taken by the appropriate authorities.

The Commission/s shall endeavour to complete its/their investigation within one week. It/they shall thereupon report to the Negotiating Council, which shall decide what action should be taken.



**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL  
TO BE HELD ON THURSDAY 1 JULY 1993 AT 10H00 - 19H00**

**Chairpersonship - L Landers assisted by MJ Mahlangu**

1. **Moment of Prayer/Meditation**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Substantive Issues**
  - 4.1 Reports from the Technical Committee on Constitutional Issues:
    - 4.1.1 Constitutional Principles:
      - 4.1.1.1 Non-Contentious Constitutional Principles for Adoption
      - 4.1.1.2 Outstanding Constitutional Principles
      - 4.1.1.3 Additional Constitutional Principles
    - 4.1.2 The Fifth Report
  - 4.2 Report from the Technical Committee on the TEC and its Sub-Councils
5. **Procedural Issues**
  - 5.1 Commission of Inquiry into the Attack on the Negotiating Process
  - 5.2 Agenda for and Report to the Negotiating Forum
  - 6.3 Participation
6. **Administrative Matters**
7. **Meetings Schedule**
8. **Closure**



# REVISED PROPOSED SCHEDULE OF MEETINGS

1 JULY 1993

Negotiating Council	Wednesday 30 June 1993	08h30 - 18h30
Negotiating Council	Thursday 1 July 1993	08h30 - 18h30
<b>NEGOTIATING FORUM</b>	Friday 2 July 1993	10h00 - 17h30

Technical Committees to do detailed work	Monday 5 July 1993 to Friday 16 July 1993
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Delegates receive available Reports of Technical Committees (and outstanding minutes)	Thursday 15 July 1993	Before 17h00
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Planning Committee	Monday 19 July 1993	08h30 - 11h00
Negotiating Council	Monday 19 July 1993	11h00 - 19h00
Negotiating Council	Tuesday 20 July 1993	09h30 - 19h00
Negotiating Council	Wednesday 21 July 1993	09h30 - 19h00

Planning Committee	Monday 26 July 1993	08h30 - 10h30
Negotiating Council	Monday 26 July 1993	10h30 - 19h00
Negotiating Council	Tuesday 27 July 1993	09h30 - 19h00
Negotiating Council	Wednesday 28 July 1993	09h30 - 19h00
Negotiating Council	Thursday 29 July 1993	09h30 - 19h00
Negotiating Council	Friday 30 July 1993	09h30 - 17h00

**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.**



## RESOLUTION 21

### RESOLUTION ON STEPS TO BE TAKEN FOR THE PURPOSES OF ESTABLISHING A NEW CONSTITUTIONAL ORDER ADOPTED BY THE NEGOTIATING COUNCIL ON 30 JUNE 1993

1. The Negotiating Council agrees on the following steps to be taken for the purposes of establishing a new constitutional order:
  - 1.1 The MPNP shall adopt the Constitutional Principles, including principles of regional government, providing for both strong regional government and strong national government;
  - 1.2 The Constitutional Principles shall be binding on the Constitution-Making Body and shall be justiciable by a Constitutional Court/Tribunal;
  - 1.3 The Commission on Delimitation/Demarcation appointed by the MPNP will make recommendations to the MPNP on regional boundaries for the purposes of elections and regional government for the transitional phase;
  - 1.4 The MPNP shall agree on legislation to make provision for the following structures for the purpose of levelling the playing field and promoting conditions conducive to the holding of free and fair elections:
    - 1.4.1 A Transitional Executive Council;
    - 1.4.2 An Independent Electoral Commission;
    - 1.4.3 An Independent Media Commission and an Independent Broadcasting Authority;
  - 1.5 The MPNP shall agree on details of discriminatory legislation to be repealed;
  - 1.6 The MPNP shall agree on a Constitution for the transitional period;
2. The Negotiating Council accordingly requests 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 governments 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;
3. Participants are given until the 12th of July 1993, to make further inputs to the Technical Committee with regard to the above draft Constitution for the transition.
  4. This is agreed against the background of paragraph 6 of the Explanatory Memorandum adopted by the Negotiating Council on 30 April 1993.



## COMMISSION OF INQUIRY

### Report to Planning Committee

1. On 25 June 1993 the Negotiating Council adopted a resolution, *inter alia*, "to appoint a Commission of Inquiry to urgently look into and report on the events that took place today and to make recommendations on security arrangements and the rules regarding demonstrations at this venue". The Planning Committee was mandated to establish the Commission immediately and to formulate more detailed Terms of Reference.
2. In the meantime it was learnt that the Goldstone Commission were also going to inquire into aspects of the occurrence. The matter was discussed with Judge Goldstone and extensively debated in the Planning Committee. Without revisiting these discussions and debates, but nevertheless against the background thereof, it is recommended that the matter be dealt with in the following way:
  - (a) Issues be identified and referred to the Goldstone Commission for inquiry and report. These should be issues that could best be investigated with the facility of the statutory powers vested in that commission. A list of proposed issues is attached.
  - (b) When the report of the Commission on these issues becomes available, the Council can consider whether any follow-up steps on its side, are indicated. Judge Goldstone has indicated that a report could possibly be ready within a week.
  - (c) The sub-committee (consisting of Dr Ngubane, and Messrs Maharaj and Van der Merwe) should be required to deal with security at the World Trade Centre in its entirety. This will include liaising with the South African Police, the Multi-Party Security component, the MPNP Administration and Mr Swart who is in control of the building itself. The sub-committee should involve itself on a day-to-day basis but also regarding longer term security. It should keep the Planning Committee informed on an ongoing basis and channel all proposals and other issues for consideration by the Planning Committee and the Negotiating Council to and from the Planning Committee.



## ISSUES TO BE REFERRED TO THE GOLDSTONE COMMISSION

1. The factual details of the incident at the World Trade Centre on 25 June 1993.
2. The role of the SAP and other security forces before, during and after the event.
3. The intelligence information bearing on the incident available to the SAP and other security forces before the incident.
4. The role of the organisers of the AVF demonstration.
5. The involvement of any party participating in the negotiations, in the incident.

RWSS.DOC



**PROPOSAL FOR CHAIRING SESSIONS AND  
ASSISTANCE TO CHAIRPERSONS FOR  
THE NEGOTIATING FORUM MEETING ON 2 JULY 1993**

<b>Chairperson</b>	<b>Assistant</b>	<b>Session</b>
L Landers	SS Ripinga H Ngubane	1: 10h00-11h00
MJ Mahlangu	M Moroke A Rajbansi	2: 11h00-12h00
R Cronje	DS Rajah S Sicgau	3: 12h00-13h00
PJ Gordhan	MH Matjokana J Gouws	5: 14h00-15h00



**DRAFT AGENDA  
FOR THE MEETING OF THE MULTI-PARTY NEGOTIATING FORUM  
TO BE HELD AT 10H00 ON 2 JULY 1993**

1. **Moment of Prayer/Meditation**
2. **Welcome and Attendance**
3. **Ratification of the Agenda**
4. **Minutes**
  - 4.1 Adoption of the minutes of the Negotiating Forum of 1 April 1993
  - 4.2 Matters arising from the minutes of the Negotiating Forum of 1 April 1993
5. **Substantive Issues - Report of the Negotiating Council**
  - 5.1 Procedures and Structures
  - 5.2 Resolution on Violence: Recommendations to the Negotiating Forum
  - 5.3 Resolution on the Transition Process: Recommendations to the Negotiating Forum
    - 5.3.1 Constitutional Principles
    - 5.3.2 SPR's
    - 5.3.3 Constitution for the Transition Period and the Constitution-Making Body
    - 5.3.4 Fundamental Human Rights during the Transition
    - 5.3.5 Levelling the Playing Field and Creating Conditions conducive to the Holding of Free and Fair Elections:
      - 5.3.5.1 Independent Electoral Commission
      - 5.3.5.2 Independent Media Commission
      - 5.3.5.3 Amendment or Repeal of Legislation Impeding Free Political Activity and Discriminatory Legislation
      - 5.3.5.4 TEC and its Sub-Councils
    - 5.3.6 An Election Date
6. **Procedural Issues - Report from the Negotiating Council**
  - 6.1 Participation
  - 6.2 Meetings Schedule
  - 6.3 Name of the Process
  - 6.4 Non-South African Participation
  - 6.5 Role of the International Community
7. **Administrative Matters**
8. **Closure**