

**DRAFT AGENDA FOR THE MEETING OF THE PLANNING COMMITTEE  
TO BE HELD ON THURSDAY 29 APRIL 1993**

**Chairpersonship : M Webb**

1. **Moment of Silence**
2. **Welcome and Attendance**
3. **Ratification of Agenda**
4. **Substantive Issues**
  - 4.1 Outstanding Constitutional Issues (Report from the Sub-Committee attached - Addendum A)
  - 4.2 Matters arising from the Report
  - 4.3 Guidelines for the proposed Technical Sub-Committees (Report to the Negotiating Council)
    - 4.3.1 Submissions by participants
  - 4.4 Recommendation on Violence (Report to the Negotiating Council)
    - 4.4.1 Submissions by participants
5. **Minutes**
  - 5.1 Planning Committee:
    - 5.1.1 31 March 1993 (see document pack to the Negotiating Council of 26 April 1993)
    - 5.1.2 1 April 1993 (see document pack to the Negotiating Council of 26 April 1993)
    - 5.1.3 22 and 23 April 1993 (attached - Addendum B)
  - 5.2 Negotiating Forum:
    - 5.2.1 1 April 1993 (see document pack to the Negotiating Council of 26 April 1993)
  - 5.3 Matters arising

## **Procedural Issues**

- 6.1 Admission of the media to meetings of the Negotiating Council (Report from the Communications Committee: attached, addendum C)
  - 6.2 Criteria for New Participants - Report from sub-committee
  - 6.3 Name of the process
  - 6.4 Role of the International Community
  - 6.5 The balance between the importance of delegates having an opportunity to verbalise their views and motions and the efficiency of the process in terms of the Resolutions Committee
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- 7. **Administrative and Financial Matters**
    - 7.1 Report re the problem with the Courier Company (Report from Administration available at the meeting)
  - 8. Agenda of and Report to the Negotiating Council
  - 9. **Meetings Schedule**
  - 10. **Closure**



## SECOND REPORT TO THE PLANNING COMMITTEE OF THE NEGOTIATING COUNCIL

### 1. Introduction

- 1.1 The Resolution on the Transition Process adopted by the Negotiating Forum on 1 April 1993 constitutes the mandate for the course of action being pursued in the Negotiating Council and the Planning Committee.
- 1.2 On 26 April 1993 the Consolidated Document on the CODESA Reports, together with proposals on technical committees relating to a number of issues arising there from, were tabled at the meeting of the Negotiating Council. The focus of those proposals was the preparation for free and fair elections and the creation of a climate for free political activity.
- 1.3 The Sub-Committee report noted that two outstanding issues arising from the CODESA reports namely, the Constitution Making Body/Process and the Transitional/Interim Constitution as well as other constitutional issues listed in the Resolution on the Transition Process of the Negotiating Forum, would be dealt with in a subsequent report.
- 1.4 The Negotiating Council on 26 April 1993, decided that the Sub-Committee submit its report on the outstanding constitutional issues to the Planning Committee on 29 April 1993, in order to ensure that the report is presented at the meeting of the Negotiating Council scheduled for 30 April 1993.
- 1.5 Accompanying the proposals in this Report and the first Report of the Sub-Committee is a draft memorandum of understanding which underpins these proposals.

### 2. The Negotiating Forum Resolution

- 2.1 On 1 April 1993 the Negotiating Forum adopted a Resolution on the Transition Process instructing:

"... the Negotiating Council to consider and report on all matters arising from the Consolidated 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"

2.2 It should be noted that of the above list of constitutional matters, the question of the Transitional Executive Council, its Sub-Councils, the Independent Elections Committee and the Independent Media Committee have already been dealt with in the first set of proposals which were tabled at the Negotiating Council on 26 April 1993.

2.3 The current proposals therefore address the remaining constitutional matters listed in the Resolution of the Negotiating Forum.

### 3. Approach to the Outstanding Constitutional Matters

3.1 All these constitutional issues have a direct bearing on two specific aspects:

- \* The Transitional/Interim Constitution which would be negotiated at the Multi-Party Forum, and enable the country to move to:
- \* A final constitution which will be adopted by an elected Constitution Making Body.

3.2 The outstanding list of constitutional matters are very much interrelated:

3.2.1 Form of State can be understood in its total dimension. Descriptions of the particular Form of State that might be used in this case, may include *inter alia*, socialist state, democratic republic, Westminster parliamentary government, constitutional state, dictatorship, democracy, union or federation. The term Form of State may also be used to focus on one particular attribute of the overall constitutional form, for example the relationship between central and regional government. Whatever the term entails, the rest of the outstanding matters listed in the Resolution (Transitional Regional/Local Government; Fundamental Human Rights during the Transition; The Future of the TBVC states; and Self-Determination) are all interrelated with the Form of State, whether as determined in a final constitution or in a transitional, an interim or a next constitution. It is accordingly suggested that it may prove unproductive, or even futile, to discuss any one of these items in complete isolation. It is suggested that whenever anyone of these listed matters is the



subject of discussion in the Negotiating Council, participants should be allowed to simultaneously also deal with any or all of the others.

3.2.2 Many appellations are used to describe any particular state or aspect of a particular Form of State. Examples are social democracy, liberal democracy, parliamentary government, federation, union, unitary state, constitutional state and multi-party government. What we seek is a consensus agreement on the political and constitutional arrangements defining the relationship between the State and its constituents. The possibility of reaching understanding and accommodating what at first sight appears to be conflicting aspirations, is enhanced if the content of particular issues and aspects are addressed.

3.2.3 The Consolidated Document on CODESA Reports contains several sections on constitutional matters under the headings: "Constitutional Making Body/Process" and "Transitional/ Interim Constitution". These sections of the report( see Annexures A and B hereof), as well as extracts relating to the Future of the TBVC States (see Annexure C hereof), are attached hereto as they may be useful for focusing discussion on the constitutional matters listed in the Resolution. To cite a few examples:

3.2.3.1 Some of the principles listed stipulate that South Africa shall be a multi-party democracy with regular elections on the basis of universal suffrage on a common voters roll; that there shall be separation of powers between the legislature, executive and judiciary; and that the constitution will be the supreme law.

3.2.3.2 Another principle listed deals with the structuring of government at national, regional and local levels.

3.2.3.3 As points of reference the use of the Consolidated Report will enable each of the principles to be looked at, refined and if necessary further elaborated so as to form the basis for the possible accommodation between participants in the Multi-Party talks.

#### 4. The Process Towards Reaching agreement

4.1 It is recommended that technical committees charged with formulating documentation in a systematic fashion under the direction of the Negotiating Council will facilitate discussion at the level of the Negotiating Council and enable participants to make structured inputs aimed at reaching accommodation.

4.2 In spite of the interrelationship of the constitutional matters listed we would suggest two technical committees:

4.2.1 A technical committee on the question of fundamental human rights during the transition. This technical committee would :

- \* Receive written inputs on fundamental rights during the transition from any participating party;
- \* Take note of discussions on this subject in the Negotiating Council; and
- \* From time to time and under the direction of the Negotiating Council prepare documentation on which discussions can proceed.

4.2.2 A technical committee to deal with the remaining constitutional items as a package (Form of State and Constitutional Principles; Constitutional Making-Body/Constituent Assembly; Transitional/Interim Constitution; Transitional Regional/Local Government; Future of the TBVC states and Self Determination). This technical committee would:

- \* Take into account discussions in the Negotiating Council on these subjects;
- \* Receive written inputs from participants; and
- \* From time to time and under the direction of the Negotiating Council prepare documentation on which discussions can proceed.

4.3 Documentation produced by each of these technical committees would be discussed at the Negotiating Council and sent back to the technical committee for further development. This process would be repeated until agreement is reached on a final document.



**CONSTITUTION-MAKING BODY/PROCESS**

**1. General Constitutional Principles**

**1.1 The Declaration of Intent contains six general principles:**

*"To set in motion the process of drawing up and establishing a constitution that will ensure, inter alia:*

- a. that South Africa will be a united, democratic, non-racial and non-sexist state in which sovereign authority is exercised over the whole of its territory;*
- b. that the Constitution will be the supreme law and that it will be guarded over by an independent, non-racial and impartial judiciary;*
- c. that there will be a multi-party democracy with the right to form and join political parties and with regular elections on the basis of universal suffrage on a common voters roll; in general the basic electoral system shall be that of proportional representation;*
- d. that there shall be a separation of powers between the legislature, executive and judiciary with appropriate checks and balances;*
- e. that the diversity of languages, cultures and religions of the people of South Africa shall be acknowledged;*
- f. that all shall enjoy universally accepted human rights, freedoms and civil liberties, including freedom of religion, speech and assembly protected by an entrenched and justiciable Bill of Rights and a legal system that guarantees equality of all before the law."*

**(cf Declaration of Intent, pages 2 & 3)**

**1.2 In this regard, an Addendum was subsequently appended to the Declaration as a clarification to the above principles:**

*"For the avoidance of doubt as to the interpretation of the Declaration of Intent, it is declared by its signatories that irrespective of their individual interpretive views thereof, no provision of the Declaration of Intent, interpreted alone or in conjunction with any other provision thereof shall be construed as -*

1. *favouring or inhibiting or precluding the adoption of any particular constitutional model, whether unitary, federal, confederal, or otherwise, consistent with democracy;*
2. *preventing any participant from advocating the same or the separation, in terms of any constitutional model, of powers between a central government and the regions; during the proceedings of CODESA or any of its committees or Working Groups;"*

*(cf Addendum to Declaration of Intent, page 4)*

1.3 In addition to the above, the Management Committee issued a further clarification to the effect that the Declaration of Intent must be understood to allow any participant to make submissions on the question of self-determination.

1.4 The question of constitutional principles which would be binding on a Constitution-Making Body (CMB) was part of the Terms of Reference of Working Group 2. The following areas of commonality with regard to general constitutional principles were prepared by the Steering Committee and submitted to the Working Group on 12 May 1992:

- "1: *South Africa will be a united, sovereign state in which all will enjoy a common South African citizenship.*
2. *South Africa will be democratic, non-racial and non-sexist.*
3. *The constitution shall be the supreme law.*
4. *There will separation of powers between the legislature, the executive and the judiciary with appropriate checks and balances.*
5. *The judiciary will be independent, non-racial and impartial.*
6. *There will be a legal system that guarantees the equality of all before the law.*
7. *There will be representative and accountable government embracing multi-party democracy, regular elections, universal adult suffrage, a common voters role and, in general, proportional representation.*
8. *The diversity of languages, cultures and religions will be acknowledged.*



9. *All will enjoy universally accepted human rights, freedoms and civil liberties including freedom of religion, speech and assembly which will be guaranteed by an entrenched and justiciable Bill/Charter of Fundamental Rights.*
10. *Government shall be structured at national, regional and local levels.*
  - 10.1 *At each level there shall be democratic representation.*
  - 10.2 *Each level of government shall have appropriate and adequate legislative and executive powers, duties and functions that will enable each level to function effectively; such powers, duties and functions to be entrenched in the constitution.*
  - 10.3 *In addition to the powers, duties and functions entrenched in the constitution, each level of government may delegate powers, duties and functions to other levels of government.*
  - 10.4 *The general principles of the constitution including the terms of the Bill/Charter of Fundamental Rights shall apply to each level of government.*
11. *The new constitution shall provide for effective participation of minority political parties consistent with democracy."*

*(cf pages 43 - 44)*

- 1.5 The Steering Committee also prepared a report dated 27 April 1992 recording the areas on which no agreement yet existed:

"2. Issues on Which No Agreement Yet Exists

- 2.1 *Economic freedom, government intervention and economic systems.*
- 2.2 *Accommodation of the diversity of languages, cultures and religions.*
- 2.3 *Role of Traditional Leaders.*
- 2.4 *The Bill/Charter of Fundamental Rights including:*
  - 2.4.1 *Its nature and scope*
  - 2.4.2 *Affirmative action*
  - 2.4.3 *Second generation rights*

2.5 *Self-determination*

2.6 *New items proposed, namely:*

2.6.1 *The role of standing committees in the formulation of legislation.*

2.6.2 *Government will be open, accessible and accountable.*

2.6.3 *Power sharing.*

3. *Draft Principles on 2.1 to 2.4 Above Prepared by the Steering Committee on 23.3.92*

3.1 *Draft principle on economic freedom, governmental intervention and economic systems:*

*"The constitution should provide for the promotion of the improvement in the quality of life of all South Africans by enabling economic growth, human development, social justice and equal opportunities for all."*

3.2 *Draft principle on the Bill/Charter of Fundamental Rights:*

*"There shall be a justiciable bill/charter of fundamental rights which shall ensure inter alia :*

- universally accepted human rights and freedoms;*
- civil liberties including freedom of religion, speech and assembly;*
- the equality of all before the law;*
- property rights, provided that legislation may in the public interest authorise expropriation against payment of reasonable compensation which shall in the event of a dispute be determined by a court of law.*

*The constitution shall enable the implementation of measures to help address the racial and gender inequities caused by past discrimination. "*

3.3 *Draft principle on the accommodation of the diversity of languages, cultures and religions:*

*"The constitution at all levels of government shall accommodate and protect the right of citizens to practice their religion, enjoy*



*their culture and use their own language both as individuals and in association with others. This shall include the right of citizens where practicable to have their children educated in their mother tongue and the right of citizens to establish educational institutions reflecting their language, culture and religion, provided that racial discrimination may not be practised."*

3.4 Draft principle on the role of traditional leaders:

*"The constitution should define a suitable role for traditional leaders consistent with the objective of a united, non-racial, non-sexist, democratic South Africa." "*

(cf pages 41 - 42)

2. Constitution-Making Body

2.1 The Working Group 3 Report to CODESA 2 recorded commonality, on *pages 48 & 49*, in the following terms:

*"9. As will appear from the agreements set out below, the Working Group was of the opinion that the transition to democracy involves two preliminary stages. The first stage is one during which preparations will be made for the holding of free and fair elections for an elected parliament under an interim constitution with the power to draft in terms of agreed procedures a new constitution and to act as an interim legislature. This stage covers the whole of the period up to and including the holding of the elections. The second stage covers the period from the holding of the elections to the adoption of a new democratic constitution and the installation of a new government in accordance with the provisions of such constitution."*

2.2 This Report also recorded the following understanding:

*"12. The following agreements were reached in regard to the first stage of the transition. These agreements and their implementation are dependent upon agreement being reached by Codesa in respect of the second stage of the transition, including an interim constitution, and general constitutional principles."*

2.3 The memorandum prepared by the Chairman and Secretary of Working Group 2, dated 22 June 1992, which appears on *pages 33 - 44*, records the following basis approach:

*"1. Basic approach: Constitution making within the framework of a Transitional/Interim Constitution*



1.1 CODESA shall agree to and draft a transitional/interim constitution. This constitution shall be submitted to parliament for legislation within two months of this agreement and all parties within Codesa in parliament commit themselves to supporting such legislation.

1.2 The transitional/interim constitution shall make provision for the constitution making process through which, and the constitution making body by whom, a final constitution shall be drafted and adopted."

(cf page 36)

2.4 Working Group 2 was seized with three proposals which appear on *pages 34 - 35*, aimed at resolving the deadlock which had arisen. All three proposals were based on the premise that the elected National Assembly would draft and adopt the final constitution.

2.5 From the point of view of constitution making, the National Assembly shall be elected on the basis of proportional representation and universal adult suffrage, half the seats being allocated through national lists and half through regional lists, in order to ensure proper representation of regions.

(cf paragraphs 3.1.2, 3.2.1, page 37)

2.6 On the binding nature of the constitutional principles, the following was recorded:

"3.8.1 CODESA shall agree on a set of general constitutional principles to be enshrined in the final constitution and which shall not be contradicted by any provision of the final constitution.

3.8.2 The transitional/interim constitution shall contain an entrenched provision prescribing that the final constitution shall give effect to paragraph 3.8.1 and shall establish an independent mechanism which will be the only body to determine that the general constitutional principles have been enshrined and not contradicted in the final constitution; which determination may only be initiated by a party in the NA."

(cf page 39)

2.7 On the question of time frames and deadlock-breaking for the CMB, the following is recorded:



"4. Special Mechanisms

*Codesa shall agree on special mechanisms to ensure that the national assembly completes the work of drafting and adopting the final constitution within a specified period of time. The transitional/interim constitution shall remain in force until replaced by the final constitution."*

*(cf page 39 of the Volume on CODESA Agreements)*

*(cf pages 30-36 of the Consolidated Report.)*

TRANSITIONAL/INTERIM CONSTITUTION

1. The Working Group 3 Report records the following:

"9. As will appear from the agreements set out below, the Working Group was of the opinion that the transition to democracy involves two preliminary stages. The first stage is one during which preparations will be made for the holding of free and fair elections for an elected parliament under an interim constitution with the power to draft in terms of agreed procedures a new constitution and to act as an interim legislature. This stage covers the whole of the period up to and including the holding of the elections. The second stage covers the period from the holding of the elections to the adoption of a new democratic constitution and the installation of a new government in accordance with the provisions of such constitution."

(cf page 48)

2. The Transitional/Interim Constitution (as distinct from the final constitution) shall be agreed upon in CODESA.

3. The Transitional/Interim Constitution shall make provision for the following:

"3.1 A Legislature

*The legislative authority shall vest in a democratically elected interim/transitional parliament consisting of a National Assembly and a Senate functioning in terms of the special majorities and general constitutional principles agreed upon.*

3.1.1 *The structure and role of the Senate must still be agreed upon.*

3.1.2 *The National Assembly shall be elected on the basis of proportional representation and universal adult suffrage, half the seats being allocated through national lists and half through regional lists in order to ensure proper representation of regions."*

(cf page 37)

"3.3 An Executive

3.3.1 *Executive authority shall vest in a multiparty executive in accordance*



*with the principle of an interim/transitional government of national unity.*

**3.4 The separation of powers**

*There shall be a separation of powers between the executive, legislature and judiciary according to the principles underlying a constitutional state.*

**3.5 Fundamental Rights**

*CODESA shall agree on justiciable fundamental rights which shall form part of and shall be entrenched in the transitional/interim constitution.*

**3.6 Regional Government**

**3.6.1** *CODESA shall agree on the boundaries, powers, duties and functions of regional governments.*

**3.6.2** *Provision shall be made for regional government and/or the phasing in of such government with the boundaries, powers, duties and functions as referred to in paragraph 3.6.1.*

**3.6.3** *The transitional/interim constitution shall entrench regional government and its boundaries, powers, duties and functions in the transitional phase and the transitional/interim constitution shall in this regard not be amended without the agreement of all the parties in the National Assembly until the adoption of a new constitution in terms of the procedures set out in 3.2.*

**3.7 Provisions regarding amendments to the transitional/interim constitution.**

*Amendments shall only be of force and effect if:*

**3.7.1** *They do not contradict the set of constitutional principles referred to in paragraph 3.8.1.*

**3.7.2** *They have been adopted according to the procedures set out in paragraph 3.2."*

*(cf page 38 of the Volume on CODESA Agreements)*

**(cf pages 37-38 of the Consolidated Report)**

#### 4.4 Working Group 4 : The future of the TBVC states

(The full text of agreements appear on pages 66-73 of the Volume on CODESA Agreements)

The report recorded:

- 4.4.1 Agreement in principle to the reincorporation of the TBVC states
- 4.4.2 Agreement that the TBVC states will participate in the transitional arrangements as projected by Working Group 3, on the understanding that these arrangements shall impact mutatis mutandis on the TBVC governments and territories in the same way that they impact upon the South African government and the territory of the RSA.  
The Bophuthatswana government reserved its position
- 4.4.3 Agreement that the TBVC states shall take part fully in the process of constitution making and the transitional arrangements, including elections, as may be proposed by Working Groups 2 and 3. Their participation will be arranged in such a way that their vote in a national election shall signify support for, or rejection of reincorporation thus constituting a test of the will of the people. (Reservations were expressed by the Bophuthatswana government)  
This will lead to the restoration of South African citizenship to all citizens of the TBVC states who would have been South African citizens had the TBVC states not come into existence. (Reservations by the Bophuthatswana government were expressed)
- 4.4.4 Consensus was reached on a number of issues in relation to the practical, financial and administrative effects of reincorporation.



**MEMORANDUM OF UNDERSTANDING AMONG ALL PARTICIPANTS IN THE  
MULTI-PARTY PROCESS RELATING TO PROPOSALS ARISING FROM THE  
MULTI-PARTY FORUM RESOLUTION ON THE TRANSITION PROCESS.**

1. The Transition Process involves reaching agreement on a number of key elements. Discussion around any particular element gives rise to suspicion and fears that agreement on it would lead to that agreement being implemented before agreement has been reached on ALL the key elements that constitute a package around the transition process.
2. Such fears were addressed in the CODESA process in Working Group 3 whose report appears in the Consolidated Document on pages 22-29. This Report states that "These agreements (that is, relating to the first stage of the transition, namely the TEC) and their implementation are dependent upon agreement being reached by CODESA in respect of the second stage of the Transition, including an Interim Constitution, and general Constitutional Principles". (cf clause 4 of the Agreement on page 22).
3. Mindful that the above proviso is contained in the CODESA Agreements which are treated in the Multi-Party Forum as points of reference, and not as binding agreements; mindful also that some of the participants in the current Multi-Party Forum have specifically indicated that they consider themselves bound by the agreements reached in CODESA; it therefore becomes necessary that participants in the Multi-Party Forum should commit themselves to a similar type of provision so that the proposals based on the Multi-Party Resolution on the Transition Process may be addressed in a manner that removes any fears that agreement on any particular proposal necessarily implies agreement on their implementation.
4. The proposals contained in the first report of the Sub-Committee deals with the need for the setting up of technical committees on the following aspects:
  - 4.1 The Independent Elections Commission
  - 4.2 The Independent Media Commission and the Independent Telecommunications Authority
  - 4.3 The Amendment or repeal of legislation impeding free political activity and discriminatory legislation
  - 4.4 On the TEC and its Sub-councils with the proviso that the question of security forces and all armed formations shall be given priority attention.
  - 4.5 On strengthening the National Peace Accord
  - 4.6 On the Peace Corps

The second report of the Sub-Committee on other constitutional matters proposes two more technical committees;

5.1 On fundamental rights in the Transition

5.2 On other constitutional matters namely, Form of State and Constitutional Principles, Constitution Making Body/ Constituent Assembly, Transitional/Interim Constitution, Transitional Regional Government, the Future of the TBVC 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.



THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO MEMBERS OF THE PLANNING COMMITTEE AND THE NEGOTIATING COUNCIL. THEY ARE STILL TO BE RATIFIED AT THE NEXT MEETING OF THE PLANNING COMMITTEE.

**DRAFT MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 14H30 ON THURSDAY 22 APRIL 1993 AND AT 08H30 ON FRIDAY 23 APRIL 1993 AT THE WORLD TRADE CENTRE**

PRESENT:

- B Alexander
- R Cronje
- C Eglin
- PJ Gordhan
- FT Mdlalose
- RP Meyer
- MC Ramaphosa
- J Slovo
- Z Titus (Chairperson by rotation)
- M Webb
  
- T Eloff (Administration)
- G Hutchings (Minutes)
- H Bokaba (Assistant)
- K Morgan (Assistant)

**Action**

**1. Chairpersonship and Welcome**

- 1.1 In accordance with the agreed principle of rotation, MC Ramaphosa was due to assume the role of Chairperson for the meeting. MC Ramaphosa requested the meeting to allow him to stand down and the next member chair the meeting.
- 1.2 The next member due to chair was J Slovo who also requested that he be allowed to stand down from the chair.
- 1.3 It was agreed that Z Titus, therefore, assume the role of Chairperson.
- 1.4 The members were welcomed and the Chairperson enquired as to whether any member had any proposals or comments to put forward before the meeting began formally. In this regard the following was noted:
  - \* MC Ramaphosa formally conveyed the

appreciation of the ANC and thanked members of the Planning Committee for their understanding and co-operation with regard to the proposal put forward by the ANC that meetings of the Negotiating Process be postponed in order to arrange Mr Chris Hani's burial.

- \* That the meetings of the Negotiating Process would have commenced on 15 April 1993 if the assassination of Mr Chris Hani had not occurred.

1.5 Apologies were noted for the late arrival of R Meyer when the meeting recommenced on Friday 23 April 1993.

## 2. Ratification and Amendment of the Agenda

The Agenda was ratified with the following amendments:

- \* Item 3 to read "Ratification and Amendment of Agenda";
- \* The addition of an item 3a to read "Implications of the assassination of Mr Chris Hani and subsequent events for the negotiations process";
- \* Item 6 and 7 be interchanged;
- \* Item 6 to read as follows:
  - "6.1 The Report from the Sub-Committee on Constitutional Issues
  - 6.2 Implementation of the Resolution on Violence
    - 6.2.1 Submissions by participants on violence
  - 6.3 Implementation of the Resolution on the Transition Process";
- \* The addition of an Item 10 to read "Draft Agenda for and report to the Negotiating Council";

Administration



- \* The numbers following changed accordingly.

It was agreed to begin each meeting of the Planning Committee with a moment of silence. It was further agreed that a proposal recommending that meetings of the Negotiating Council commence in this way, be tabled at the meeting of the Negotiating Council on Monday 26 April 1993.

Chairpersons

### 3. **The Implications of the Assassination of Mr Chris Hani on and Subsequent Events for the Negotiations Process**

#### 3.1 After discussion the following was noted:

- \* It was agreed to focus on Item 6 of the agenda before attending to the other Items on the agenda.
- \* It was agreed to propose to the Negotiating Council that a motion of condolences be extended to the Hani family on behalf of the Multi-Party Negotiating Process.
- \* That PJ Gordhan was requested to draft a proposal for submission to the Planning Committee when the meeting recommenced on Friday 23 April 1993. Once this draft had been amended and approved by the meeting, it would be tabled at the meeting of the Negotiating Council on Monday 26 April 1993.

PJ Gordhan

### 4. **Substantive Issues**

#### 4.1 The Transition Process:

- 4.1.1 As mandated by the Negotiating Forum, the Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe) tabled and verbally presented the Consolidated Document, encompassing CODESA Agreements (and Constitutional Issues) to the meeting.
- 4.1.2 Furthermore, four proposals intending to take the up the issues of the TEC, the IEC, the IMC

and Discriminatory Legislation were presented to the meeting.

- 4.1.3 It was agreed that the Sub-Committee only present the Consolidated Document to the meeting and that discussion in this regard would take place when the meeting recommenced on Friday 23 April 1993, where the Planning Committee would then formulate a package of proposals for recommendation to the meeting of the Negotiating Council on Monday 26 April 1993. These proposals would be aimed at facilitating the way forward.

Sub-Committee

- 4.1.4 It was agreed to deal with the substance of what was reported first and then to deal with the issue of violence when the meeting recommenced on Friday 23 April 1993.

The meeting adjourned at 17h35.

The meeting recommenced on Friday 23 April 1993 at 08h30.

- 4.1.5 After discussion the following was noted:

- \* The proposals as suggested by the Sub-Committee will allow those participants who were not part of CODESA to make an input. Furthermore, they also allow participants in the CODESA process to make further inputs should they so wish;
- \* It was agreed to recommend to the Negotiating Council that the proposed Technical Sub-Committees be established. This constituted agreement on the handling of the process and procedures to be followed but not necessarily on the substantive issues;
- \* That drafting in legislative form should



precede substantive discussion on these issues/topics as this would facilitate and structure the discussion process. It was further noted that this drafting would in no way pre-empt political decisions on the issues;

- \* Any participant may submit inputs/proposals in respect of the Terms of Reference of the Technical Sub-Committees through the Sub-Committee. It was further noted that the possible receipt of further inputs should not delay the setting up and the work of the Technical Sub-Committees;
- \* All participants should be invited to submit written inputs with regard to the Terms of Reference. The suggested deadline for such submissions is Wednesday 28 April 1993 at 12h00. It was suggested to propose to the Negotiating Council that the Council mandate the relevant proposed Technical Sub-Committee to take into account as many of the submissions as possible. The amended Terms of Reference should be submitted to the next meeting of the Negotiating Council (Friday 30 April 1993) through the Planning Committee;
- \* That the Technical Sub-Committees would only have the power to draft in terms of their mandate (i.e. the Terms of Reference);
- \* It was noted that this was an initial report from the Sub-Committee and that the Planning Committee was awaiting a further report dealing with Constitutional Issues as listed within The Resolution on the Transition Process as adopted at the meeting of the Negotiating Forum on 1 April 1993;

- \* The Sub-Committee members were congratulated on their work.

4.1.6 It was agreed to present the report to the Negotiating Council in the following way:

- \* To initially draw the attention of the Negotiating Council to the Resolution on the Transition Process adopted at the meeting of the Negotiating Forum on 1 April 1993;
- \* That the proposals are part of the recommended way of implementing the Resolution;
- \* To clearly state that the report is not complete and that the Sub-Committee, to complete the report, is still to submit via the Planning Committee a report on the Constitutional Issues to be dealt with as listed in the adopted Resolution on the Transition Process;
- \* To further state that these issues would be dealt with at the next meeting of the Negotiating Council on Friday 30 April 1993.
- \* To make participants aware that it is the concept of the setting up of Technical Sub-Committee that is being recommended and that all participants are invited to submit inputs with regard to the Terms of Reference of the Technical Sub-Committees. Furthermore, once the Technical Sub-Committees have been established, all participants will have direct access to them.
- \* That if any participant finds any inconsistencies within the Consolidated Report, to advise the Sub-Committee in this regard. Furthermore, that the



Summary of CODESA Agreements as distributed at the meeting of the Negotiating Forum on 1 April 1993 is the authoritative document and that the Consolidated Document is a consolidation of the Summary of CODESA Agreements.

- \* To note that points of substance should be submitted to the Negotiating Council through the Planning Committee. It was suggested that it could be considered to allow Technical Sub-Committee members to attend relevant meetings of the Negotiating Council so as to benefit from the input. A cut-off date is needed so that the proposed Technical Sub-Committee can proceed with and complete its work.

4.1.7 It was agreed that the Administration should make copies of the report from the Sub-Committee available to all delegations before the meeting of the Negotiating Council on Monday 26 April 1993.

Administration

4.1.8 It was agreed that the report be embargoed until Monday 26 April 1993 at 12h00.

4.1.9 Composition of the proposed Technical Sub-Committees:

- \* It was agreed that members of the Technical Sub-Committees should be appointed as individuals and should have the necessary expertise.
- \* It was noted that the Sub-Committee is in the process of drawing up a list of possible candidates specifying their areas of expertise.
- \* It was agreed to recommend to the Negotiating Council that only members of Sub-Committees who would lose

remuneration for the period that they are working for the proposed Technical Sub-Committees be re-imbursed for their time, based on a professional rate.

- \* It should be proposed to the Negotiating Council that it mandates the Planning Committee to submit a recommendation to the next meeting of the Negotiating Council with regard to the list of possible candidates. It should further be proposed that participants may suggest to the Planning Committee any candidates to be included within the recommendation.

4.2 Violence:

4.2.1 The Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe) presented a report on violence.

4.2.2 It was agreed to recommend to the Negotiating Council that 3 Technical Sub-Committees each consisting of 3 persons be established.

4.2.3 It was suggested that the Technical Sub-Committees should deal immediately with the following issues:

- \* Strengthening of the Peace Accord, taking into account the work of Working Group 1 at CODESA. It should be further recommended that 3 persons be nominated from the Peace Committee to serve in an advisory capacity on the Technical Sub-Committee.
- \* The possible setting up of a Peace Corps.
- \* Armed Formations. It is recommended that this Technical Sub-Committee be entrusted to the Technical Committee on



the TEC.

4.2.4 It was agreed that the issue of violence should be an ongoing debate and should remain on the agendas of the Planning Committee and the Negotiating Council. It was further agreed that submissions should be received on an on-going basis in this regard.

4.2.5 It was suggested that all participants, if they so wish, submit suggestions for further mechanisms to resolve the issue of violence to further identify the issues to be addressed by the mechanisms to the Sub-Committee. This would facilitate the work of the Sub-Committee in submitting recommendations to the Planning Committee, who in turn would submit recommendations to the Negotiating Council.

4.2.6 It was agreed that a peace statement be drafted by the Sub-Committee for tabling at the meeting of the Negotiating Council on Monday 26 April 1993 through which all participants in the Multi-Party Negotiating Process could publicly re-commit themselves to peace.

Sub-Committee

## 5. Motions of Condolences

It was agreed that a motion of condolences should be sent to the family of Dr AP Treurnicht. C Eglin was requested to draft a motion in this regard.

## 6. Minutes of the Planning Committee meetings of 31 March 1993 and 1 April 1993

6.1 The minutes were noted but not approved.

6.2 It was agreed to consider the minutes at the next meeting of the Planning Committee.

6.3 The minutes of the Negotiating Forum would also be considered at the next meeting of the Planning Committee. It was agreed that the minutes of the

Negotiating Forum should be included within the documentation for the meeting of the Negotiating Council on Monday 26 April 1993.

7. **Procedural Issues**

7.1 **Admission of the media to meetings of the Negotiating Council** (Report from the Communications Committee):

7.1.1 A representative from the Communications Committee presented a report which included recommendations to the Planning Committee. (This issue was reported on at the beginning of the meeting on Thursday 22 April 1993.)

7.1.2 After discussion it was agreed that:

- \* In view of the clear decision taken by the Negotiating Council at its meeting of 30 March 1993 to admit the media to meeting of the Negotiating Council, the Administration in consultation with the Communications Committee should make the necessary arrangements to accommodate the media.
- \* It was agreed that another room be set up to accommodate a possible media overflow with a feed running from the meeting room into the overflow room.
- \* It was agreed that the Administration get a cost estimate from the SABC. The quotation of R27 927 excluding VAT was accepted for services rendered from the SABC for Monday 26 April 1993 and Friday 30 April 1993.
- \* It was agreed that the Communications Committee will submit a report to the Planning Committee based on the results of the media attending the meeting of the Negotiating Council on

Administration

Communications Committee



Monday 26 April 1993. Further recommendations would then be made to the Negotiating Council.

- \* It should be reported to the Negotiating Council at the meeting on 26 April 1993 that the Planning Committee handled the arrangements for the media on Monday 26 April 1993 and a final report will follow.
- \* It was agreed that the Item of "Media Documentation" should be the first item on the agenda for the meeting of the Negotiating Council. A decision is necessary on whether the media should pay a fee for documentation relevant to the meeting. It would be suggested to the Negotiating Council that each media group be requested to deposit a sum of R200 in payment for copies of documents relevant to the meeting. Agendas of the meeting of the Negotiating Council on Monday 26 April 1993 would be distributed to the media before the meeting.

Planning  
Committee

## 7.2 Agreement for the Administration:

A draft agreement would be submitted to the meeting of the Negotiating Council on Monday 26 April 1993 for adoption.

## 7.3 Criteria for New Participants:

7.3.1 The Sub-Committee requested the Planning Committee to re-consider the report from the Sub-Committee at its next meeting as no amendments had been made to the document. The Sub-Committee was of the view that not enough inputs had been received in this regard from participants to justify amendments.

7.3.2 It was noted that the Sub-Committee should receive from the Administration any

Administration

outstanding submissions in this regard.

7.3.3 It was noted that this issue should be treated as a matter of urgency.

7.4 **Name of the Process:**

7.4.1 It was agreed to refer this issue to B Alexander and J Slovo for further consideration and recommendation.

7.4.2 It was be reported to the meeting of the Negotiating Council on Monday 26 April 1993 that this issue is still under consideration.

8. **Administrative and Financial Matters**

8.1 It was noted that reports not received timeously should stand over until the next meeting of the Planning Committee.

8.2 The Administration gave a report on security with regard to possible demonstrations to be held on Friday 23 April 1993. The Administration requested assistance from members if necessary. It was agreed that the demonstrators should remain outside the premises of the World Trade Centre.

8.3 The Administration submitted a report on "Contact with other Negotiating Fora". The report was adopted with amendments (see Addendum A). It was noted that the Planning Committee is to be kept fully informed in all aspects in this regard and a list of such fora should be submitted by Administration.

8.4 The Administration announced that copies of newspapers would be available in the tea/coffee area of the Negotiating Council meeting room.

8.5 It was noted that if participating governments and administrations make travel and accommodation arrangements through the travel offices of the Multi-Party Negotiations Process at the World Trade Centre they are not liable for payment of the account as the

Administration



Financial Administration would be re-imbursing the travel office and not the relevant government/administration.

**9. Role of the International Community**

9.1 All participants were requested to submit recommendations to the Sub-Committee (consisting of M Maharaj, B Ngubane and SS van der Merwe). The Sub-Committee is then to submit proposals/recommendations in this regard to the Planning Committee for recommendation to the Negotiating Council. It was noted that there is no deadline for submissions at this stage.

Chairperson

9.2 It was noted that the Role of the International Community will further emerge as the process unfolded.

**10. Draft Agenda for the meeting of and the report to the Negotiating Council**

10.1 It was agreed that the Chairperson for the meeting of the Negotiating Council on Monday 26 April 1993 (PJ Gordhan) be assisted by the incoming Chairperson (L Landers).

10.2 With regard to the question of the role that the Chairperson of the Planning Committee plays within the meetings of the Negotiating Council, it was agreed that this be discussed at the next meeting of the Planning Committee. It was noted that when reports are presented by the Planning Committee the last Chairperson of the Planning Committee should be onhand to assist the Chairperson of the day.

Planning  
Committee

10.3 The draft agenda was approved as amended (see Addendum B).

10.4 It was agreed that:

- \* The Consolidated Document be introduced by Z Titus and the Planning Committee

recommendations be presented by Z Titus.

- \* The body of the Consolidated Document be presented by the Sub-Committee.
- \* The Agreement on the Administration, Criteria for New Participants and the Role of the International Community be presented by the Chairperson.
- \* The report on the Name of the Process be presented by J Slovo.

## **11. Meetings Schedule**

The meetings schedule would be recommended to the meeting of the Negotiating Council on Monday 26 April 1993.

## **12. Closure**

12.1 It was agreed that the Chairperson of day issue a brief statement to the media bearing in mind the status of the Planning Committee.

12.2 The meeting closed at 13h15.

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

.....  
**CHAIRPERSON**



**Recommendation on Contact with Other Negotiating Bodies**

Given the fact that, apart from the Multi-Party Negotiating Process, there are numerous national and regional negotiating initiatives, and given the need for transparency, it is recommended that:

1. Contact be made with all relevant negotiating forums, requesting and offering regular exchange of decisions.
2. The Administration, keeping the Planning Committee fully informed, be mandated to comply with this on an ongoing basis.
3. The Administration is to submit a list of such fora to the Planning Committee.

**DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL  
TO BE HELD ON MONDAY 26 APRIL 1993 AT 10H00**

**Chairpersonship - PJ Gordhan assisted by L Landers**

- 1. Moment of Silence and Motions of Condolences**
- 2. Welcome and Attendance**
- 3. Ratification of Agenda**
- 4. Media Documentation**
- 5. Minutes**
  - 5.1 Adoption of the minutes of the meeting of the Negotiating Council of 30 March 1993
  - 5.2 Matters arising out of the minutes of the meeting of the Negotiating Council of 30 March 1993
  - 5.3 Other minutes to be noted
- 6. Substantive Issues**
  - 6.1 Tabling of the Consolidated Document
  - 6.2 Recommendations by the Planning Committee:
    - 6.2.1 On Violence
    - 6.2.2 On the Transitional Process
- 7. Procedural Issues : Report of the Planning Committee**
  - 7.1 Agreement on Administration
  - 7.2 Criteria for New Participants
  - 7.3 Name of the Process
  - 7.4 Role of the International Community
- 8. Administrative Announcement**
- 9. Meetings Schedule**
- 10. Closure**



REVISED REPORT OF THE COMMUNICATIONS COMMITTEE  
FOR PRESENTATION TO THE PLANNING COMMITTEE ON  
THURSDAY 29 APRIL 1993

1. TECHNICAL

1.1 Negotiating Council

1.1.1 As the deliberations of the Negotiating Council are to be reported on by news representatives of local and foreign television, radio and print media, the Committee recommends that:

1.1.2 an area (gallery) be permanently reserved inside the room for media representatives (given the expected size of the gallery it should be for the use of journalists only);

1.1.3 the area be separated from the rest of the room and with a separate entrance, but that easy access to and from this area should be ensured;

1.1.4 the media area be elevated and furnished with as many tables and chairs as possible;

1.1.5 steps be taken to ensure that debate in the Council is audible in the media area;

1.1.6 adequate lighting be provided for reporters working in the area; and

1.1.7 to ensure that the electronic media have an equal opportunity to report on the deliberations of the Council and that those journalists (and special guests of the Council) who cannot be accommodated in the gallery can follow proceedings elsewhere, that the Planning

Committee should urgently call for tenders from possible contractors to supply an audio and video feed of broadcast quality.

1.1.8 Parties interested in tendering should know that:

1.1.8.1 the Council will not necessarily sit on the same days of the week or at the same times every day;

1.1.8.2 tenders should not only be for the Council but also for the Forum and Plenary meetings (details later);

1.1.8.3 a separate tender for the manning of the equipment should be included;

1.1.8.4 three fixed cameras with a remote switching facility should be installed in the Council room;

1.1.8.5 television lighting should be installed;

1.1.8.6 audio feed should link up with Council facilities;

1.1.8.7 video and audio feed should be relayed to the media working area (and to area for special guests) provided for those who cannot be accommodated in Council room;

1.1.8.8 video monitors and loudspeakers should be installed in these separate areas; and

1.1.8.9 feed should also be made available for recording through malt boxes with an adequate number of plug points.

1.1.9 Tendering parties should also indicate whether they think covering the costs themselves and selling the



audio and video feed to interested media and the Council would be feasible.

1.1.10 The Planning Committee should note that costs could be cut if all speakers were to use a podium (instead of participating in debates from their seats) and/or if the Council were to meet in a bigger room where the visual media could do their own recording.

## 1.2 Negotiating Forum / Plenary

1.2.1 The Committee recommends that when the installation of facilities for the Council room is considered, media coverage of the Forums and Plenaries should also be taken into account.

1.2.2 It also recommends that:

1.2.2.1 the whole gallery area be reserved for the media and that it be furnished with as many chairs and tables as possible;

1.2.2.2 there should be adequate lighting and loudspeakers in the gallery; and

1.2.2.3 an audio and video feed of broadcast quality should be supplied for broadcasting purposes (see 1.1.7 to 1.1.10).

## 1.3 General

1.3.1 The Committee recommends that a media conference room be made available permanently.

1.3.2 The room should have:

- 1.3.2.1 an elevated area for speakers' table and chairs;
- 1.3.2.2 a special table covering and backdrop for TV coverage;
- 1.3.2.3 a stable elevated area across the back of the room for TV cameras;
- 1.3.2.4 as many chairs as possible between elevated areas for seating of journalists; and
- 1.3.2.5 proper air-conditioning.
- 1.3.3 Because of the costs involved, the media should supply own lighting equipment and microphones.
- 1.3.4 The Committee recommends that a special interview room with necessary furniture and backdrop be provided for TV and radio interviews.
- 1.3.5 The Committee also recommends that the present media working area be maintained (offices and common room) and that pay faxes, pay phones and a pay photostat facility be installed. Telkom should also be encouraged to continue installing private lines with locking facilities for individual users in this area.

## 2. ACCREDITATION

- 2.1 The Committee recommends that initially representatives of the news media should be re-registered on each day that they attend meetings of the Council, Forum or Plenary.
- 2.2 Some form of permanent registration I.D. could be introduced in the future.



2.3 The Committee also recommends all facilities should be made available to the media on a first come first served basis.

2.4 The Committee will consider a form of accreditation to regular users of the facilities at a later stage (after two months) with a view to giving such representatives priority use of some facilities and advise the Planning Committee accordingly.

### 3. PUBLICITY

3.1 The Committee still has to consider the report of its Publicity Sub-Committee and will later advise the Planning Committee accordingly.

WORLD TRADE CENTRE  
KEMPTON PARK  
28.4.93