

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 15H15
ON MONDAY 13 SEPTEMBER 1993 AT THE WORLD TRADE CENTRE**

PRESENT : R Cronje
PJ Gordhan (Chairperson by rotation)
C Kruger
RP Meyer
MC Ramaphosa
SN Sigcau
Z Titus
M Webb

M Maharaj (Sub-Committee)
SS van der Merwe (Sub-Committee)

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 Absent from the meeting were B Alexander, FT Mdlalose and B Ngubane (sub-committee).
- 2.3 Apologies were noted for late arrival by RP Meyer.
- 2.4 Apologies for an early departure were noted by MC Ramaphosa.
- 2.5 Apologies were noted for non-attendance by C Eglin and J Slovo.

3. Ratification of Agenda

The agenda was ratified with no amendments.

4. **Minutes**

It was agreed to note the minutes of 23 August through to 26 August 1993, 30 August 1993 and 31 August 1993 and deal with them at a future meeting of the Planning Committee.

5. **Substantive Issues**

5.1 **Constitutional Issues:**

5.1.1 Progress report on the bilaterals and/or multilaterals:

5.1.1.1 It was noted that constructive progress was being made.

5.1.1.2 The issue of Traditional Leaders was raised. It was agreed that the Planning Committee should meet with the representatives of the Traditional Leaders at an appropriate time to address their concerns.

5.1.2 The procedure/process for the drafting of citizenship legislation:

It was agreed to defer this issue to a future meeting of the Planning Committee.

5.1.3 Financial Matters in the run up to the elections (transformation and rationalisation):

It was agreed to defer this issue to a future meeting of the Planning Committee.

5.2 **Commission on the Demarcation/Delimitation of Regions:**

5.2.1 The Sub-Committee gave a progress report on the work of the Commissioners and the Technical Support Team.

5.2.2 It was noted that a meeting of the Commissioners and the Technical Support Team had occurred on Saturday 11 September 1993.

5.2.3 It was confirmed that F Smit was unavailable to continue in his capacity as Co-Chairperson. It was agreed to replace F Smit with one of the other members of the Commission. A list of the Commissioners was distributed in the meeting. It was agreed to return to this issue before the meeting adjourned in order to allow members an opportunity to consider the list of names.

5.2.4 During the course of the meeting this issue was returned to and it was proposed that A du Plessis should replace F Smit as Co-Chairperson of the Commission. The Sub-Committee was requested to ascertain,

before the meeting adjourned, whether A du Plessis would be available for the position. This proposal was agreed to.

5.2.5 Before the meeting adjourned, it was noted that the Sub-Committee had made contact with A du Plessis who had provisionally indicated his availability for the position. It was therefore agreed to submit a recommendation to the Negotiating Council that A du Plessis should replace F Smit as Co-Chairperson of the Commission on Regions.

5.3 Planning for the implementation and practical application of the four Bills, (including the National Peace Keeping Force) and informal preparation for the operation of the structures:

It was agreed that this issue stands over until a future meeting of the Planning Committee.

5.4 The role of the international community, including definition and present role in other structures:

It was agreed that this issue stands over until a future meeting of the Planning Committee.

5.5 The processing of the four Draft Bills through Parliament:

5.5.1 A progress report was given to the meeting by the Task Group.

5.5.2 It was noted that the Task Group already had received documents to consider. When the documents had been considered by the Task Group a recommendation would be submitted to the Planning Committee. The Task Group was requested to meet immediately after the meeting of the Planning Committee.

5.5.3 Before the meeting adjourned this item was returned to. The Task Group gave a report to the meeting on amendments that had been suggested to the Draft Bills on the IEC, the IMC and IBA by D Schutte of the South African Government. Discussion proceeded around this issue.

5.5.4 The proposed amendments were circulated to Planning Committee members (see Addendum A). Further discussion followed.

5.5.5 Concerns were expressed by various members with regard to the proposed amendments.

5.5.6 After lengthy discussion it was agreed to revisit this issue at the meeting of the Planning Committee on 14 September 1993. It was noted that R Cronje was to have an informal discussion with D Schutte

with regard to his suggested amendments.

5.6 Commission on National Symbols:

It was noted that the first meeting of the Commission was scheduled for Wednesday 15 September at 10h00. All members of the Commission had been notified accordingly. It was noted that most members of the Commission had accepted their appointment.

5.7 Fundamental Human Rights during the Transition:

5.7.1 It was noted that the Ad-Hoc Committee was meeting on 14 September 1993.

5.7.2 The letter from Chief Justice Corbett was discussed (see Addendum G of the agenda documentation).

5.7.3 After discussion it was agreed that the Sub-Committee should ascertain the facts as to whether S Camerer and H Corder did give permission for the publication of the submission. Once the facts around this issue had been clarified, the Planning Committee would return to this issue.

5.7.4 It was suggested that S Camerer and H Corder should be made aware that Technical Committee and Ad-Hoc Committee members should not interact in any way with the media.

5.7.5 It was suggested that the Planning Committee should decide what procedures or processes should be followed before permission is granted to the media for publication or for comment of confidential reports/documents.

5.7.6 A view emerged from the discussion that the report of the Technical Committee on Fundamental Human Rights during the Transition is a preliminary one and is subject to debate in the Negotiating Council and should therefore not be opened up for public scrutiny until debated in Council.

5.7.7 Another view emerging from the meeting was that the Chief Justice should be able to release its report to the press.

5.8 Repeal or Amendment of Discriminatory Legislation:

5.8.1 The Sub-Committee gave a progress report to the meeting with regard to the Task Group.

5.8.2 It was noted that arrangements had been made for Professor van der Westhuizen to work from the World Trade Centre and all the

necessary documentation had been prepared to facilitate his work.

5.8.3 It was noted that the Sub-Committee was still to supply the Planning Committee with a recommendation on the name of a person from the Department of Justice to work with Professor van der Westhuizen on the Task Group. This recommendation would be submitted to the Planning Committee by Tuesday 14 September 1993.

5.8.4 An appeal was made to the TBVC States to provide the Sub-Committee with a name from their Ministry of Justice to assist the Commission with its work.

5.9 Violence:

It was noted that there was nothing further to report on this issue at this stage.

5.10 PAC/SA Government Issue:

5.10.1 Z Titus, as convenor of the ad-hoc committee, gave a reportback to the meeting on a brief meeting held.

5.10.2 It was agreed at the meeting to make the South African Government aware that the ad-hoc committee had briefly met. The South African Government was requested to comment on the latest presentation from the PAC either in writing or verbally. Once a response is received, the matter would be taken further.

5.10.3 R Meyer noted that he wanted to respond when B Alexander was present in the Planning Committee.

5.10.4 It was agreed that the ad-hoc committee should have an informal discussion with R Meyer beforehand to establish his views before the issue was again discussed in the Planning Committee.

5.11 Contralesa:

It was agreed to deal with this letter (see Addendum B of the agenda documentation) in the context of the envisaged meeting with the representatives of Traditional Leaders.

6. Procedural issues

6.1 Implementation of decision on Liaison Committees:

6.1.1 The National Economic Forum:

6.1.1.1 It was noted that a meeting had been arranged for 20 September 1993 from 08h00 to 09h30.

6.1.1.2 The date was tentatively agreed to, subject to changes in the meetings schedule. The Administration was mandated to change the meeting to a more suitable date should the need arise in liaison with the members of the liaison committee.

6.1.2 Local Government Negotiation Forum:

It was noted that the date of meeting was still to be decided.

6.2 Report from the Ad-Hoc Committee with regard to the outcome of the court case:

6.2.1 Z Titus gave a report to the meeting on the outcome of the court case. It was noted that the two respondents had won their case.

6.2.2 A written report would be presented to the Negotiating Council by Z Titus.

6.3 Avstig:

It was agreed to recommend to the Negotiating Council that since Avstig did not meet the criteria for admission, its application should be turned down.

6.4 Submission on Remuneration - Mr R Rosenthal, Technical Committee on the IEC:

The Sub-Committee and the Administration submitted a recommendation which after discussion was agreed to.

7. Administrative and Financial matters

7.1 Security:

It was noted that there was nothing to report.

● 7.2 **Financial Matters:**

It was noted that there was nothing to report.

7.3 **African Industrial Development Corporation - handing over of a memorandum on Tuesday 14 September 1993:**

It was noted that the current Planning Committee Chairperson would receive the memorandum from the African Industrial Development Corporation.

7.4 **Public availability of documents : Sub-Committee to report back:**

It was agreed to defer this issue until a future meeting of the Planning Committee.

7.5 **Correspondence to be noted:**

It was agreed to note the following correspondence:

- * Letter from the Permanent Mission of the Kingdom of Nepal to the United Nations (see Addendum C of the agenda documentation)
- * Unilateral interference into Lebowa Financial Administration by the RSA Government - letter from the Lebowa Government Service (see Addendum D of the agenda documentation)
- * Letter from the Returned Exiles Committee (see Addendum E of the agenda documentation)
- * Letter from the South African Democratic Teacher's Union (SADTU) re Education Crisis in Lebowa (see Addendum F of the agenda documentation).

7.6 **Correspondence to be dealt with:**

7.6.1 Letter from Chief Justice Corbett (see Addendum G of the agenda documentation):

It was noted that this issue had been dealt with under item 5.7 above. The Administration was requested to draft the necessary reply. This decision was arrived at before the second letter from the Chief Justice was distributed during the course of the meeting.

7.6.2 Letter from Chief Justice Corbett re the 12th Report on Constitutional Issues (see Addendum B):

7.6.2.1 During the course of the meeting a further letter from Chief Justice Corbett was distributed to the meeting.

7.6.2.2 Discussion proceeded. It was noted that two issues were dealt with in the letter, i.e. a notification to make a submission on the 12th report of the Technical Committee on Constitutional Issues and, secondly, comments on the publication by the Sunday Times of the submission relating to the Draft Bill on Fundamental Human Rights during the Transition.

7.6.2.3 It was agreed that the position of the Chief Justice (see paragraph 2 of the said letter) should be clarified to correct any misrepresentation. Furthermore, some intervention on behalf of the process should be made. It was noted that the process had an obligation to protect the Chief Justice from being drawn into the political debate. The Sub-Committee was again requested to establish the facts as to how the submission of the Chief Justice got to the media. Once the facts were available, the question of what mechanism to employ should be addressed. This issue would be taken further at the meeting of the Planning Committee of 14 September.

7.6.2.4 It was agreed that Technical Committee members and Ad-Hoc Committee members should be sent a letter from the Planning Committee, clearly marked confidential, in which the contents of the two letters from the Chief Justice should be brought to their attention. In this way the members would be made aware of the views of the Chief Justice. It was noted that the Sub-Committee would make contact with the relevant people in this regard.

8. Agenda and Programme for the Negotiating Council

- 8.1 The agenda for the Negotiating Council meeting of 14 September was approved of (see Addendum C).
- 8.2 The draft programme was approved of as amended (see Addendum D).

9. Schedule of Meetings:

- 9.1 Discussion proceeded around the schedule of meetings.
- 9.2 It was noted that the Electoral Act would not be ready on Thursday 16 September 1993.

- 9.3 It was agreed to postpone the Negotiating Council meetings of Wednesday 15 September and Thursday 16 September.
- 9.4 It was suggested that there was a possibility that the Negotiating Council, due to the processing of the Draft Bills through Parliament, would only be in a position to meet on Thursday 23 September and Friday 24 September and deal with Constitutional Issues. It was agreed that R Meyer should contact the Chief Whip of Parliament to establish the envisaged programme with regard to the processing of the Draft Bills. The meetings schedule could be finally amended once the information from the Chief Whip had been received.
- 9.5 Before the meeting adjourned, R Meyer reported to the meeting that he had made contact with the Chief Whip of Parliament and that the proposal as outlined in item 9.4 was in line with the programme envisaged by Parliament. It was agreed that the Negotiating Council meetings of 20 September, 21 September and 22 September should be postponed and the Negotiating Council should meet on 23 September and 24 September. A recommendation in this regard would be put before the Negotiating Council meeting of 14 September 1993.
- 9.6 Concerns were expressed about the lack of progress with regard to the Interim Constitution and the time pressures arising therefrom regarding the need to complete the work on the Interim Constitution which had to be submitted to the second session of Parliament. Discussion followed. It was agreed that the Sub-Committee should speak to all the Technical Committee members and explore possibilities with them to keep them available to complete their work.
- 9.7 It was agreed that the Planning Committee would meet on Thursday 23 September at 08h30 for approximately an hour and a half.

10. Closure

- 10.1 It was noted that the Planning Committee would meet on Tuesday 14 September at 09h00 to deal with outstanding issues.
- 10.2 A request that the issue of voter education should appear on the agenda of the Planning Committee meeting of Tuesday 14 September was agreed to.
- 10.3 The meeting adjourned at 18h15.

These minutes were ratified at the meeting of the Planning Committee of 18 October 1993 and the amended version signed by the Chairperson of the original meeting on1/11/1993.....


.....
CHAIRPERSON

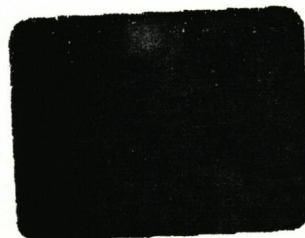
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● **MULTI-PARTY NEGOTIATING PROCESS**

**URGENT FAX TO: TASK GROUP:
PARLIAMENTARY BILLS**

FOR ATTENTION:

MR MAC MAHARAJ
MR FANIE VAN DER MERWE
MR ZAM TITUS
MR MICK WEBB
DR THEUNS ELOFF



FROM: MELODY EMMETT

DATE: Mon. 13/9/93

NUMBER OF PAGES:

(7)

RE: Amendments proposed by Douie Schutte to
the IBA, IMC & IEC Bills.

MESSAGE:

AMENDMENT**INDEPENDENT ELECTORAL COMMISSION BILL****New Clause**

The Minister of Home Affairs: That the following be a new Clause to follow clause 41:

Amendment of Act

42. (1) The State President, in consultation with the Transitional Council, may determine the need for and the content of any amendment or supplement to or repeal of any provision of this Act, and the State President shall by proclamation in the Gazette, amend, supplement or repeal the provisions of this Act accordingly.
- (2) Any such amendment, supplement or repeal shall, subject to the provision of subsection (3), have the force and effect of an Act of Parliament.
- (3) Different dates may be fixed under subsection (2) in respect of different amendments, supplements or repeals under this section.

AMENDEMENT

WETSONTWERP OP DIE ONAFHANKLIKE VERKIESINGSKOMMISSIE

Nuwe Klousule

Die Minister van Binnelandse Sake: Dat die volgende 'n nuwe Klousule uitmaak om op Klousule 41 te volg:

Wysiging van Wet

42. (1) Die Staatspresident kan, in oorleg met die Oorgangeraad, besluit oor die noodsaaklikheid vir en die inhoud van enige wysiging van of byvoeging aan of herroeping van enige bepaling van hierdie Wet, en die Staatspresident wysig, voeg by of herroep die bepalings van hierdie Wet dienooreenkomstig by proklamasie in die Staatskoerant.
- (2) Enige bedoelde wysiging, byvoeging of herroeping het, behoudens die bepalings van subartikel (3), die krag en effek van enige Wet van die Parlement.
- (3) Verskillende datums kan kragtens subartikel (2) ten opsigte van verskillende wysigings, byvoegings of herroepings kragtens hierdie artikel bepaal word.

AMENDMENT**INDEPENDENT BROADCASTING AUTHORITY****New Clause**

The Minister of Home Affairs: That the following be a new Clause to follow Clause 82:

Amendment of Act

83. (1) The State President, in consultation with the Transitional Executive Council, may determine the need for and the content of any amendment of supplement to or repeal of any provision of this Act, and the State President shall by proclamation in the Gazette, amend, supplement or repeal the provisions of this Act accordingly.

(2) Any such amendment, supplement or repeal shall, subject to the provision of subsection (3), have the force and effect of an Act of Parliament.

(3) Different dates may be fixed under subsection (2) in respect of different amendments, supplements or repeals under this section.

SEP 13 1955 11:51 AM U.S. DEPT. OF JUSTICE
P. 5/7

AMENDEMENT

WETSONTWERP OP DIE ONAFHANKLIKE UITSAAL-OWERHEID

Nuwe Klousule

Die Minister van Binnelandse Sake: Dat die volgende 'n nuwe Klousule uitmaak om op Klousule 82 te volg:

Wysiging van Wet

83. (1) Die Staatspresident kan, in oorleg met die Uitvoerende Oorgangsraad, besluit oor die noodsaaklikheid vir en die inhoud van enige wysiging van of byvoeging aan of herroeping van enige bepaling van hierdie Wet, en die Staatspresident wysig, voeg by of herroep die bepalings van hierdie Wet dienoreenkomstig by proklamasie in die Staatskoerant.

(2) Enige bedoelde wysiging, byvoeging of herroeping het, behoudens die bepalings van subartikel (3), die krag en effek van enige Wet van die Parlement.

(3) Verskillende datums kan kragtens subartikel (2) ten opsigte van verskillende wysigings, byvoegings of herroepings kragtens hierdie artikel bepaal word.

AMENDMENT**INDEPENDENT MEDIA COMMISSION BILL****New Clause**

The Minister of Home Affairs: That the following be a new Clause to follow clause 35:

Amendment of Act

36. (1) The State President, in consultation with the Transitional Executive Council, may determine the need for and the content of any amendment or supplement to or repeal of any provision of this Act, and the State President shall by proclamation in the Gazette, amend, supplement or repeal the provisions of this Act accordingly.
- (2) Any such amendment, supplement or repeal shall, subject to the provision of subsection (3), have the force and effect of an Act of Parliament.
- (3) Different dates may be fixed under subsection (2) in respect of different amendments, supplements or repeals under this section.

AMENDEMENT**WETSONTWERP OP DIE ONAFHANKLIKE MEDIAKOMMISSIE****Nuwe Klousule**

Die Minister van Binnelandse Sake: Dat die volgende 'n nuwe Klousule uitmaak om op Klousule 35 te volg:

Wysiging van Wet

36. (1) Die Staatspresident kan, in oorleg met die Uitvoerende Oorgangsraad, besluit oor die noodsaaklikheid vir en die inhoud van enige wysiging van of byvoeging aan of herroeping van enige bepaling van hierdie Wet, en die Staatspresident wysig, voeg by of herroep die bepalings van hierdie Wet dienooreenkomstig by proklamasie in die Staatskoerant.
- (2) Enige bedoelde wysiging, byvoeging of herroeping het, behoudens die bepalings van subartikel (3), die krag en effek van enige Wet van die Parlement.
- (3) Verskillende datums kan kragtens subartikel (2) ten opsigte van verskillende wysigings, byvoegings of herroepings kragtens hierdie artikel bepaal word.

Telegraphic address } "APPEAL"
Telegramadres }

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By beantwoording taal aan

No.

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Office of the Registrar of the Supreme
Court of South Africa

Kantoor van die Griffier van die
Hooggeregshof van Suid-Afrika

G R I F F I E R

APPELAFDELING
POSBUS 258
BLOEMFONTEIN

FAKS VERSENDINGSMEMORANDUM :

FAX TRANSMISSION COVERING MEMORANDUM :

GEADRESSEERDE: THE MULTI-PARTY NEGOTIATING PROCESS
ADDRESSEE :

NAAM
NAME DR T ELOFF

AFDELING
DIVISION

VERWYSINGSNOMMER
REFERENCE NO.

FAKS NR.
FAX NO. 011: 397 2211

SKAKELBORD NR.
SWITCHBOARD NO.

AFSENDER: APPEAL COURT, BLOEMFONTEIN
SENDER :

NAAM
NAME THE HON CHIEF JUSTICE M M CORBETT

VERWYSINGSNO.
REFERENCE NO.

FAKS NR. 051 - 478098
FAX NO.

AANTAL BLADSYE WAT HIERDIE BLAD-
SY VOLG

NUMBER OF PAGES TO FOLLOW THIS
PAGE

ONE

BOODSKAP:
MESSAGE :

Skakel asseblief **ONMIDDELLIK** indien u nie die aantal bladsye, soos hierbo aangedui ontvang het nie of indien u swak afdrucke ontvang het. Please telephone **immediately** if you did not receive the number of pages indicated above or if copies are illegible.



REPUBLIC OF SOUTH AFRICA

CHIEF JUSTICE OF SOUTH AFRICA
APPEAL COURT
BLOEMFONTEIN
9300

P.O. BOX 258

13 September 1993

Dr T Eloff
Head: Administration
Multi-Party Negotiating Process
P O Box 307
ISANDO 1600

Dear Dr Eloff

re: 12th Report on Constitutional Issues

Thank you for your letter of 8 September 1993. My colleagues and I have had an opportunity to read the 12th Report on Constitutional Issues ("the 12th Report") handed to me by Mr Arthur Chaskalson SC. In response to your invitation we wish to submit to the Multi-Party Negotiating Process, for distribution to the relevant committees, a further memorandum commenting on the 12th Report. The memorandum has been drafted, but still has to be approved by my colleagues. I will fax it through to you as soon as possible.

I regret that the judicial memorandum to the Multi-Party Negotiating Process on the Bill of Rights appears to have been leaked to the Sunday Times. I did not give permission for its publication. I regret also that the Sunday Times report, which is misleading in its main theme, and other references to our memorandum in the same edition of that newspaper, saw fit to present our memorandum as some kind of confrontation between the judiciary and the Multi-Party Negotiating Process and its relevant committees. It is nothing of the sort. The criticisms in our memorandum were presented purely in a constructive spirit. I would appreciate it if this message could be conveyed to the committee or committees concerned.

Yours sincerely

M M Corbett
CHIEF JUSTICE

**● DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON TUESDAY 14 SEPTEMBER 1993 AT 09H00**

Chairpersonship - M Finnemore assisted by PJ Gordhan

1. Moment of Prayer/Meditation

2. Welcome and Attendance

3. Ratification of Agenda

4. Minutes

Distribution of minutes to be ratified at the next meeting of the Negotiating Council

5. Planning Committee Reportback

6. Substantive Issues

6.1 Third Draft Constitution for the Transition

6.1.1 Eleventh Report of the Technical Committee on Constitutional Issues

6.1.2 Twelfth Report of the Technical Committee on Constitutional Issues

7. Administrative and Financial Matters

8. Meetings Schedule and Draft Programme (addended)

9. Closure

DRAFT PROGRAMME FOR MEETINGS

13 SEPTEMBER 1993

Monday 13 September 1993	Bilaterals & Ad-hoc Committees	*	Various constitutional issues
Tuesday 14 September 1993	Discussion:	*	Constitution for the Transition
Wednesday 15 September 1993	Bilaterals & Ad-hoc Committees	*	Various constitutional issues
Thursday 23 September 1993	Discussion:	*	Constitution for the Transition
Friday 24 September 1993	Discussion:	*	Constitution for the Transition
Monday 27 September 1993	Discussion:	*	Electoral Act
Tuesday 28 September 1993	Discussion:	*	Electoral Act (if necessary)
		*	Constitution for the Transition
Wednesday 29 September 1993	Discussion:	*	Constitution for the Transition
Thursday 30 September 1993	Discussion:	*	Constitution for the Transition