

NEG C. 15/06/93.

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**TRANSCRIPT NC1506**

MR LANGLEY:

Mr Chairman, page 3 paragraph 4.2.1. the third rule was a procedural resolution. We actually decided that it wasn't a resolution but it was a process I think. Instead of a resolution a directive, it was a directive not a resolution it was before.

MR CHAIRMAN:

I'm advised that is correct it is not what the meeting decided upon. This is correct as it is.

MR LANGLEY:

That it is a directive do you agree with me it is a directive.

MR CHAIRMAN:

I will ask the administration

MR WEBB:

Mr Langley used the words it was a procedural resolution and the meeting agreed sorry Mr Cronje used the words procedural resolution, we checked it on the tape and the meeting agreed to that.

MR CHAIRMAN:

Ok thank you. Page 4.

MR

Sir page 3.4.2.2 sir.

MR CHAIRMAN:

Page 3

MR WEBB:

Yes, Item 4.2.2.

MR CHAIRMAN:

Yes Mr Webb



MR WEBB:

I cannot recall that as a specific notation, perhaps the administration can give us a background to that.

MR CHAIRMAN:

A specific what?

MR WEBB:

Notation. It was further noted. Because it is not consistent with the standing rules. Chairperson the issue is that reservations noting reservation does not mean that somebody disagrees. Noting reservation means I reserve my rights to either speak later, consult my principal, or with various other things and the Chairperson noted that while people might have reservations, sufficient consensus is still possible and it was also mentioned in the meeting that is why it is in the minutes.

MR WEBB:

Mr Chairman, I recall the matter being dealt with under whether the reservation was an abstention or not. There is no reference to whether it is the same as abstentions. I would like that point clarified, because the very issue at the time was that by remaining silent by agreeing tacitly with a number of previous speakers, your you were regarded as having consented to general sufficient consensus. And that was the notation and therefore we need to draw the parallel as to whether silence gives credibility to the topic at the time. I raised that point and that is why I think the notation is incorrectly stated there, that although various participants may respect the resolution note reservations sufficient consensus could still be declared if there was more or general agreement with regard to the particular motion before the meeting. What we required to know was a result of that, whether it was necessary to talk on every single item so that you could record your position and subsequent to that in the course of the meeting Mr Ramaphosa actually said let us not discuss everyone where there it becomes repetitive and that is one of the reasons we need to clear this up because it relates to other items on the Agenda this morning. Thank you.

MR CHAIRMAN:

How will you like it to be put to read Mr Webb?

MR WEBB:

I haven't I'm not original in minute taking sir, so I don't know, but perhaps the Administration would like to re-phrase it according to the general discussion.

MR CHAIRMAN:

Mr De Jager, would you like to speak on the same matter?

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MR DE JAGER:

Yes, Mr Chairman, if I reserve my position in order to consult with my principal, it can never but never be regarded that I'm in favour of the motion of the the resolution as put before the meeting. I think that's quite clear that it should be emphasised here that that could never be regarded as a vote in favour of the resolution.

MR

Mr Chairperson, may I just point out that the last second last line of 4.2.2. reads if we can read it "that it was further noted that although various participants may in respect of a resolution note reservation, sufficient consensus could still be declared if there was broad/general agreement so that that does not say that Mr De Jager, Mr Chairman is seen to be going along with the meeting with with the resolution if notes reservations, he can note reservations, but if there is still broad/general agreement, there can be declared sufficient consensus. That was what was said in the meeting, but Chairman what we could do perhaps to come to Mr Webb's aid, is that we look at the transcriptions and then come up with a possible change for the next meeting. Thank you sir.

MR CHAIRMAN:

Will that suit you Mr Webb?

MR WEBB:

Yes, indeed sir.

MR CHAIRMAN:

Lets go, lets move on then. Mrs Horse, do you want to speak on page 3? From the very same item yes Dr M???

SPEAKER:

To me this is the nature of legislation, where legislating a new standing rule here, in this paragraph, if you read it carefully. Because it will be applied in future, and it does not appear on the standing rules. This is where the query comes from.

MR CHAIRMAN:

Mr Becling? do you want to talk on the same issue?

SPEAKER:

Mr Chairman, in view of the fact that that wasn't a decision, it was further noted. I actually firmly believe that 4.2.2. should be struck from the record because the only matter relating to whether there is consensus or not is as it is stated in the standing

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rules. To the extent that this may create doubt or dispute, as to the meaning of the standing rules, I believe that this should fall away and the standing rules should continue as they are. I will be happy with that.

MR CHAIRMAN:

The House agreed that we struck off 4.2.2.? OK, agreed thank you.

MR CHAIRMAN:

Page 6. Yes Mr Langley, I'm sorry Mr Langley are you talking.

MR LANGLEY:

I'm talking page 6 under the heading 'The following reservations were noted'.

MR CHAIRMAN:

Following reservation, where's that, alright fine.

MR LANGLEY:

The KP is also listed there but, we opposed it actually, we didn't have a reservation, so I want us taken out there and listed separate.

SPEAKER:

First paragraph says that.

MR CHAIRMAN:

The administration will check that, the administration will change that Mr Langley.

SPEAKER:

I think that people should read the minutes properly, so we don't have the time of this meeting wasted.

MR CHAIRMAN:

Ok, let's not all talk at the same time. Asterix 3 Mr Langley, will that solve your problem?

MR LANGLEY:

Asterix 3 thank you. I'm not wasting the time when the man says I am wasting the time he is wasting the time Mr Chairman. The point I made is that we oppose, we didn't only note the reservation, we opposed that is the point I am making.

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MR CHAIRMAN:

Oh, so you don't you it to be under reservation? You want it to be separate? Ok thank you noted. Page 7, page 8, page 9, page 10, page 11, page 12, page 13, page 14, page 15. Yes, Mr De Jager

MR DE JAGER:

Mr Chairman, under 5.5.7, when that decision was taken by the Chairman the rule there was sufficient consensus, I told him that I don't agree that the sufficient consensus and I challenged his decision and asked that the procedures laid down in the rules be followed. But it is not reflected in the minutes.

MR CHAIRMAN:

Yes, I will request Mr Eloff to respond on that.

SPEAKER:

Chairperson, Item 8 of the minutes and documentation of the standing rules say ' that where a member/members specifically requested the objection is noted the objection will be so minuted. The speaker did not specifically ask for his objection to be noted' and therefore it wasn't.

MR CHAIRMAN:

Ok, note.

MR DE JAGER:

Really, I asked that it be noted and I even challenged it and asked that the procedural that the procedures description be honoured.

MR CHAIRMAN:

Alright noted Mr De Jager. Right, page 16, page 17, page 18, page 19, 20, 21 resolution, 22, 23, 24, 25 and 26.

MR WEBB:

Could I raise a question?

MR CHAIRMAN:

Which page Mr Webb?

MR WEBB:

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MR CHAIRMAN:

25

MR WEBB:

I may have missed it, is there in fact not a long resolution prior to that was that Addendum C?

MR CHAIRMAN:

I am advised that Addendum C was not adopted, that is the long one there.

MR WEBB:

I don't think Addendum C was adopted, but Addendum D wasn't.

MR CHAIRMAN:

It wasn't?

MR WEBB:

Addendum D as it seemed to as I recollect have an enormous preamble and there is no preamble on this resolution D I mean Addendum D.

MR CHAIRMAN:

So you want the preamble to be added there?

MR WEBB:

I've forgotten what it says, I don't have a copy of it sir.

MR CHAIRMAN:

Oh, so you don't have a copy?

MR WEBB:

Don't have a copy so I don't .....

MR CHAIRMAN:

Mr Meyer?

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SPEAKER:

Mr Chairman, my understanding is that Addendum C, except for paragraph 1, under Resolves was accepted and that paragraph 1 on page 23 was then replaced by Addendum D on page 25 of the documents. In other words, instead of paragraph 1 under 'therefore resolves' that, that was replaced actually by Addendum D in terms of the compromised proposal of Mr Ramaphosa at that stage, but the rest of Addendum C was actually accepted. That is the point sir.

MR CHAIRMAN:

Are you happy about that Mr Webb?

MR WEBB:

No, I don't believe it was accepted.

MR CHAIRMAN:

You don't believe it was accepted.

MR WEBB:

That is why I believe that by tabling it as Addendum C in toto and then Addendum D only an extract of a resolution, pre-supposes then the acceptance of the other wording in Addendum C and this is what worries me.

MR CHAIRMAN:

Mr Slovo?

MR SLOVO:

Mr Chairperson, as the meeting will recall I moved Addendum C, after length debate of some hours, there was an amendment to paragraph 1. Paragraph 1 at the bottom of page 23 of Addendum C, moved by Mr Ramaphosa and that amendment, is contained in Addendum D.

MR CHAIRMAN:

Mr ???

SPEAKER:

Mr Chairman, could we read the minutes. The minutes says that at this point, page 16 that at this point a compromise resolution by the ANC was put before the meeting. The compromise resolution was adopted by sufficient consensus see Addendum D. So it as Addendum D that was adopted. I have major problems with aspects of Mr



Slovo's motivation for the resolution, and it was on the motivation for the resolution that we opposed the election date, not the election, not a date for an election but the motivation that it should be decided upon now. So according to the minutes and according to my memory to what we adopted, for some believe what was adopted was the motion put forward as reflected as Addendum D.

MR SLOVO:

Mr Chairman, I'm truly sorry that my motivation has affected the future elections. Umm, but uuh I don't think we should debate this issue. The real essence of the decision is contained in Addendum D and if delegates here Feel we ought to restrict ourselves to Addendum D, we should do so.

MR CHAIRMAN:

Thank you Mr Slovo, that should. Mr Jacobs? Do you want to speak on the same issue?

MR JACOBS:

On the same issue, could I refer back to page 14.

MR CHAIRMAN:

Page 14

MR JACOBS:

5.5.3. It reads as follows, the last sentence 'a discussion then flowed into dealing with the election date. To my mind, the Chairman specifically ruled that due to the powers vested in him, I now rule that we discuss the election date. There was no such thing as it that it flowed into and also in this regard the second point. I then at that stage challenged the ruling of the Chairman by saying he must please take legal advise before you make a ruling in this regard. I want that also to be inserted into the minutes. I challenged...

MR CHAIRMAN:

What is is that you want to be inserted Mr Jacobs?

MR JACOBS:

In the first instance, in the first instance the discussion then flowed into dealing with the election date is not correct. The Chairperson ruled specifically ruled to the effect that he said due to the powers vested in me, I now rule that we discuss the election date.

MR CHAIRMAN:

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So you want it to read that way.

MR JACOBS:

Yes, that is the first point.

MR CHAIRMAN:

Right, your second point?

MR JACOBS:

I then, after that, challenged the ruling of the chair. I want that also to be inserted please. And I added to that Mr Chairman you must please take legal advise before you make a ruling in this regard.

MR CHAIRMAN:

Yes sir Zam?

MR TITUS:

I understand we are dealing with Addendum D. I would like to find out from you why are we now being taken back to a page which was already okayed and approved.

MR CHAIRMAN:

I was just going to rule that because I was thought Mr Jacobs is linking page 14 with Addendum D. Most unfortunately, he is not linking it with that.

MR JACOBS:

With due respect, I say it is linked with that and further more are we now trying to get around to position to refresh something that was that is wrong in the minutes to say it is right.

MR CHAIRMAN:

Ok, Mr Jacobs we will come to that, can we deal with Addendum D. Mr Slovo said he has no problem if the delegates feels that we restrict ourselves to Addendum D. Is that accepted? Agreed? Thank you very much. Mr Eloff would you like to comment on this on what Mr Jacobs is saying?

MR ELOFF:

Chairman, if a meeting decides to change the standing rules, which Mr Jacob Jacobs is actually asking. Because the standing rules says in the debate where a member or members specifically request that their objections is noted it will be so noted. Mr

Jacobs did not specifically request his objection to be noted. If he want to do it expo ... and the meeting decides that we can do it then we change the standing rules.

MR CHAIRMAN:

Dr Ngubane?

MR JACOBS:

No Mr Chairman, there was no question, that I should must as an obligation say that I want this to be specifically stated. It is normally, it is normal procedure that when the minutes are not correct, correctify them without reserving the specific right to this.

SPEAKER:

Chairperson we can look into that and again come with a suggestion to the next meeting.

MR CHAIRMAN:

Agreed. Dr Ngubane?

DR NGUBANE:

What is the implication of Mr Slovo's statement that we can ignore Addendum C and only consider Addendum D. Does it mean that it ceases to stand?

MR CHAIRMAN:

Mr Eloff will speak to that before Mr Slovo reacts.

SPEAKER:

Chairperson, the minutes on page can I just get it. On page 15, 5.6.1. says 'a proposed resolution as recommended by the Planning Committee was formally put to the meeting Addendum C'. And therefore it should be as a Addendum to the minutes and then 5.6.6. on the next page says 'at this point a compromise resolution was adopted by sufficient consensus. See Addendum D'. So Addendum C should be part of the minutes because it was presented at the meeting but it was not accepted that is what the minutes says in 5.6.1.

MR CHAIRMAN:

Is it clear Dr Ngubane?

MR ELOFF:

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Chairperson, Addendum C can't be taken out of the minutes, it was a document presented at the meeting. So it should be part of the minutes as Addendum C. But it says in the minutes 5.6.1. Dr Ngubane on page 15. 5.6.1. 'a proposed resolution was put for the meeting Addendum C, but then if you turn the next page a discussion followed 5.6.5 the two proposals were put to the meeting 5.6.6. at this point a compromise resolution was put and accepted by sufficient consensus Addendum D. So Addendum C just refers to a proposed resolution that was on the table.

MR CHAIRMAN:

Ok, that's clear? Thank you very much.

MR JACOB:

Question Mr Chairman question.

MR CHAIRMAN:

Question on what Mr Jacobs?

MR JACOBS:

Question on the procedure. Is the explanation by Dr Eloff now to the effect that we must each and every time when we would like to have something specifically in the minutes then say that we would like to have this expressly in the minutes.

MR CHAIRMAN:

Ja, I think this it is important, so that the records of the minutes could note that in the minutes.

SPEAKER:

Can I move for progress Mr Chairman?

MR CHAIRMAN:

Yes, lets carry on. Alright, lets go to item 4.2. Matters arising from the minutes. We are starting from page 2, page 3, page 4, page 5, page 6, page 7, page 8, page 9, page 10, page 11, page 12, Mkosi Nonkonyana?

MR NONKONYANA:

Thank you Mr Chairman. Page 12, third paragraph. 'It was further agreed by sufficient consensus that the Planning Committee considered the issue of the recommendation of this principle and uuh if a separate Technical Committee or sub-committee of the current Technical Committee could be formed and report back to the Negotiating Council. Mr Chairman, they can't hear me I must repeat then. I am



saying Mr Chairman there is a matter arising on page 12 third paragraph on the issue of the formation of Technical Committees concerning the principle of the role and status of traditional leaders so can we be briefed by the Planning Committee Mr Chairman about the because that is the matter arising from those minutes.

MR CHAIRMAN:

Ok. I will ask Mr Cronje to deal about that.

MR CRONJE:

Into item 5.2.9.13 or to what?

MR CHAIRMAN:

Item 5.2.9.12 but on page 12 third paragraph.

MR CRONJE:

Mr Chairman, the Planning Committee did not give specific consideration to this, but I would refer honourable members to the reports the new reports of the Technical Committee where this matter is to a degree addressed. The fifth report of the Technical Committees.

MR CHAIRMAN:

Thank you Mr Nonkonyana. 14 I'm sorry 13. Page 14. Mrs Mangope?

MRS MANGOPE:

According to the minutes it was noted that the Planning Committee 5.4.4. would consider the problem of the composition of the Technical Committee. Has this been done?

MR CHAIRMAN:

Mr Cronje could you elaborate on that?

MR CRONJE:

Chairman, the Planning Committee gave considerable consideration to this particular issue. We must understand that the composition of this particular Committee is rather different to those of the other Technical Committees. In that four members of that Technical Committee was appointed by this Negotiating Council. And then this Council then agreed that for the four other members, making up the eight would be nominated and appointed by the Peace Accord. Having looked at this in depth, the Planning Committee came to the conclusion that the nature of the difficulties, the degree of progress that is already been made, the degree to which this Committee has



already done its work that it would be unwise to disrupt it and change it at this point in time. And that the difficulties that arise does not warrant in view of the other factors that a change has been made in this Committee in this point in time. We believe it will be more disruptive than the any good that it would achieve.

MR CHAIRMAN:

Thank you Mr Cronje. Are you alright Mrs Mangope thank you very much. Page 15 Mr De Jager?

MR DE JAGER:

Mr Chairman, fleeing from the decision that it was taken that the sufficient consensus although 9 out of the 26 members voted against the certain proposition. I have been instructed by my principal to ask for clarity on this issue. The answer on this question shall influence our participation in future the negotiation process. Is it a precedent now that if 9 out 9 members vote against a certain resolution that is of great importance that that could be ignored as a ruling could be although 9 members voted against it that sufficient consensus because then we will have to seriously reconsider our position.

MR CHAIRMAN:

Any person who would like to deal with that. Mr De Jager would like to get clarity on that maybe we could ask one member of the Planning Committee to give clarity on that. Mr Cronje?

MR CRONJE:

Chairman, no I don't want wish to clarify it. But, you will recall that the debate was not very well structured. You will recall that what the debate was dealing with is whether there should be a debate at all. On that issue at that point in time. And whilst debating that other members start arguing the actual date not the issue if whether the debate should take place. And it was a long winded debate, and in order for other people to go back and to consider allowance was made in the resolution by Mr Ramaphosa. Chairman, when it is an issue on 79 I think the procedures the standing rules of procedures makes provision and there were challenges I remember from Mr Jacobs and from Mr De Jager on the ruling of the Chairman on the issue of sufficient consensus. And if we look at standing rules, we look at 4.4. the middle paragraph says 'in particular, the ruling that there is consensus or sufficient consensus or not shall be taken by the Chair in his/her discretion. However, before ruling that there is sufficient consensus or not the Chair shall ensure that the disagreeing parties, especially those who consider themselves materially affected as well as the meeting, shall have had sufficient opportunity to utilise a variety of mechanisms in order the reach the widest possible consensus.' I will remind you Chairman that on more than one occasion I pleaded that this debate be postponed be postponed to today so that we can reach better consensus instead of trying to force it through at our last meeting. In particular, such mechanisms shall include adjournments to enable informal



discussions between participants, setting up Technical Committees composed as the meeting deems appropriate for the particular matter and consideration, as well as allowing participants to consult their principals. The Chair of the meeting shall decide upon the specific mechanisms on the basis of the nature of the issues etc., etc., etc., And I will submit to you Chairman that those procedures were not followed. That this was a substantive issue because it did not revolve a date or about elections, but whether in fact sufficient progress has been made to warrant and justify at this juncture already, making a decision on that date and I will submit to you the difficulties we are faced is the fact that we have not followed that procedure what is deemed to be an important substantive issue.

MR CHAIRMAN:

Thank you Mr Cronje. Uhh Raj?

MR RAJBANSI:

Mr Chairman, according to the rules of procedure, it is finally left to the discretion of the presiding officer to decide whether there is sufficient consensus. Now, I personally believe that the Planning Committee should discuss this issue on the question of sufficient consensus because on this issue, 34% of the participants did not support a proposal and when 34% does not support a proposal can there be sufficient consensus or not? I personally believe that the guideline to any presiding officer should now be discussed at the Planning Committee.

MR CHAIRMAN:

Thank you Raj. Mr Slovo?

MR SLOVO:

Mr Chairperson, the facts placed before you are not absolutely accurate. In regard to Addendum D, the resolution moved by Mr Ramaphosa the compromise resolution. If you look at page 16 of the book before us, it reads 5.6.7 it was noted that the AVU Bophuthatswana, Ciskei, the KP and the Kwazulu Government rejected the compromise resolution reserved all their rights in this regard and their rights to consult with their principal which is quite in accord with the standing rules. They have a right to do this and this is all they did, then 5.6.8. the IFP noted that they did not have any mandate to either tacitly or implicitly approve any date in April for an election. That relates back to presumably to our resolution of the 1st April. Although, they do not although they do want to get a date as soon as possible, so indeed we have got 1,2,3,4,5 participants out of 26 who actually rejected the compromise resolution. We are not talking about my original resolution and it seems to me that these proceedings are going to become utterly impossible and will go into reverse gear if every time a decision is taken by a Chairperson, by sufficient consensus. He declares it to be so at the end of the debate. No one stands up and says, listen you have not carried out the provisions of the standing rules. It is accepted by the meeting as sufficient consensus and we have to now meeting after



meeting come back to use these procedural aspects in order to re-debate an issue which a very small minority did not like the decision they did not like and want to re-open the discussion on the whole question. And it seems to me Mr Chairperson it is absolutely and utterly clear from the minutes which we have accepted as correct we have already accepted as correct the formulation in the minutes that the Chairperson had declared sufficient consensus and not a single party here said Mr Chairperson, we challenge your ruling we revoke certain procedures in standing rules.

MR CHAIRMAN:

We haven't given anyone to speak Mr Jacobs.

MR SLOVO:

And if it is necessary, I think people seem to have recalls about what they said but I believe its all there on that little machine and perhaps we could check if that is in dispute.

MR CHAIRMAN:

Ok, Mr Landers. You reserve your right to speak Mr Cronje.

MR CRONJE:

Chairman, we must not be misled by what is noted in the minutes, because what the minutes do not reflect is the number of parties who spoke against it. But did not have their opposition recorded in the minutes. And I can recall a number of parties here, whose name I do not wish to mention now that did speak against the motion. So it is incorrect to say that only those noted in the minutes were opposed to the resolution.

MR CHAIRMAN:

But Mr Cronje, we could have raised that when we have been correcting the minutes and those parties didn't raise that.

MR CRONJE:

They did not ask for it to be recorded.

MR CHAIRMAN:

They were quiet about it.

MR CRONJE:

What I am saying, is that sometimes people speak against it, but your voice against it is not minuted, and that's normal. Unless you ask for it to be minuted.



MR CHAIRMAN:

Ok, Mr Cronje, I expected you could have raised that when we corrected the minutes. Those parties could have said we said this and we have not been noted.

MR CRONJE:

Chairman, you are not hearing me. What I am saying is, I'm not challenging the correctness of the minutes that parties asked that there opposition be minuted. What I am saying is that there are parties around this table who spoke against the resolution who did not ask that it be minuted. So what I am saying is that those opposed to it, were not confined to 5.

MR CHAIRMAN:

Ok, alright. Mr Jacobs? Would you like to speak of this issue?

MR JACOBS:

I would like to know that on a very important point of procedure whether in future it will be the case, when a substantial part of the honourable gathering ask to consult with their principals, that the resolution could be seen to be adopted in the middle of a debate. Cause to my mind, this debate has not been completed. It was specifically said we would like to refer back to principal, we would like to come back and continue with the debate, but no where in the minutes I find this specific statement given by several parties. And therefore, therefore I previously said that I challenge the ruling by the Chair saying that he must take legal advise before he does so. And to my mind I think the Chair should have should have that is why we challenged this, and this is not reflected in the minutes it should have come up with a ruling to refer the whole issue to a Technical Committee. Mr Chairman, what happened on our last gathering, was a fine example of negotiation through confusion and I don't think that we will come up with a solution for our countries problems, when we discuss in this manner very important issues.

MR CHAIRMAN:

Ok, Mr Jacobs, now Jay and Zam and Proven.

SPEAKER:

Thank you Mr Chairman. Mr Chairman I think if one refers to the minute on page 16 in spite very clear I accept that there were a lot of comments before we came to the compromise resolution. The reason why there was a compromise resolution is because there was a difference of opinion regarding the original resolution put forward regarding the election date. But after the whole discussion and comment when the compromise resolution was brought forward only 5 parties decided to reserve their position. Now the rest not having problem with it and the 5 was not even excluded from the resolution. Hence, it was said this matter the other parties



received the given opportunity on today to come up with whether they reconsider their position or not. So it was not a question of rushing it up and closing it completely, but those who were satisfied were given the due that ok so many reserve themselves, but the others were satisfied. Now today, it is open for those other 5 parties to come up with whether they have reconsidered their position. I don't think we should have argument as to why the other people agreed to the compromise last time. It's whether the 5 parties now are coming perhaps while the discussion comes at the relevant time in the agenda. Whether they have reconsidered their position or not. Thank you.

CHAIRMAN:

Gentlemen, there is a lot of noise on my extremely right here. There is a lot of noise at my extreme right. Please let's listen to what speakers are saying. Zan Titus?

MR TITUS:

Thank you Chair. Just two points. Firstly, I just want to remind those seated around this two tables, that we have in fact given effect to a number of decisions in respect of which at least one or two parties have expressed reservations. We need to take care of that and we need to bear that in mind. And that the fact that that party has expressed a reservation, has never ever been interpreted to mean that become that it will come then thereafter take that matter forward. Point no. 2 says, I think the parties around this table need to be very careful when choosing or selecting their words when addressing the Chair for this house. Particularly, with regard to procedure. There is an ocean of difference between saying I want to consult my principal. Just stating that as a fact, and you can't really say no to that and actually saying to the Chair in terms of the rules I want you to defer or not to go ahead and give a ruling because I want to consult my principal. There is a difference between those two issues, and we therefore need to look carefully at the wording of the rules and I want to say with regard to the previous debate, although reservations were noted and whatever. Nobody went as far as to say in terms of the rules I want you Chair not to give any ruling on this, until such time that I have consulted my principal. Thank you.

MR CHAIRMAN:

Thank you Mr Titus. I still have 1, 2, 3, 4, 5 speakers. Could we try to find a solution to close this matter the question raised by Mr De Jager.

MR GORDON:

Mr Chairperson, can I put a proposal forward. Quite clearly there are a number of concerns about both the minuting of this particular item and the way in which it might have been dealt with on that particular day. What is very fortunate is that the actual resolution itself provides us with an opportunity to revisit this particular item today. Secondly, it appears on the Agenda as a substantive item for us to discuss once again. Thirdly, I think Mr Chairperson having had an opportunity to hear the concerns of



different participants, we should do two things. One, is that we should ask the Planning Committee to look into this matter to find some constructive way of dealing with the concerns that have been expressed and put forward that recommendation when that item comes up for discussion later on this afternoon. And secondly, that aah, let us defer any further discussion on this debate until the item come up on the Agenda when all of us will have the opportunity to revisit this item.

MR CHAIRMAN:

Agreed? I don't hear you. Agreed. Thank you Ok.

MR CHAIRMAN:

We are now moving on item 5.1. on the Agenda.

SPEAKER:

Chairman, in moving to substantive issues. Having taking cognisance of our discussion a few minutes ago and taking cognisance of the decision taken the resolution that the issue of the election date is to be revisited today. The Planning Committee is proposing that the question of the election date item 5.3 should be dealt with immediately with after tea time and the Planning Committee is proposing accordingly this afternoon.

MR CHAIRMAN:

Agreed. Thank you. Agreed. Thank you. Tea time afternoon Mrs Gouws. Ok. thank you. Item 5.1.

MR ALEXANDER:

Thank you Mr Chairman. We are still looking at some drafts which we would like to put before this house probably in the course of the day still and we ask for this matter if Mr Meyer concurs to stand over for a little while so that we can finalise these drafts which were discussed in the Planning Committee. Thank you Mr Chairman.

MR CHAIRMAN:

Thank you Mr Alexander. Mr Meyer?

MR MEYER:

Mr Chairman, the Planning Committee is attending to the matter with the possibility of drafting a resolution that could be put before the Council. But I would suggest that the matter stand down until after lunch.

MR CHAIRMAN:

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Agreed? Thank you. Then there was a request from Dr Ngobeni that between 5.1 and 5.2 he would like to table a motion. A motion or a resolution Dr?

MR NGOBANI:

It was a resolution.

MR CHAIRMAN:

A resolution. I think we the counsellors agreed to that.

SPEAKER:

Sorry Mr Chairman. You promised to circulate it we have not yet received it.

MR CHAIRMAN:

Ok, ya you are quite right. Dr Ngubane, do we have a copy of your resolution?

MR NGUBANE:

It should be with the Administration.

MR CHAIRMAN:

Ok, can we wait a bit. Let them circulate the copy of the resolution. We are waiting that everyone has a copy of the resolution.

MR RAMAPHOSA:

Mr Chairman, we have just received a statement to be delivered by Dr Ngubane. Where is the motion you are talking about?

MR CHAIRMAN:

No, it is a statement. I'm sorry. Is there a separate motion?

MR RAMAPHOSA:

Could we see the motion?

MR CHAIRMAN:

Oh, I haven't seen the motion. I've got a statement with me.

MR RAMAPHOSA:

We would like to see the motion.

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MR CHAIRMAN:

Ok, let's wait a bit until we all get the motion.

MR RAMAPHOSA:

Mr Chairman. I think it might be helpful if we also get the copy of the motion which the IFP said it would be tabling. Because Mr Matthews did say that it would be dealing with more or less the same matter or constitutional matters. Now that the constitutional Technical Committee is here, shouldn't we have that motion as well?

MR CHAIRMAN:

Thank you. The members of the Technical Committee. Welcome. We have a submission by the delegation of government of Kwazulu to the Multi-Party Negotiating Council on its sitting today the 15th June 1993. So we thought that whilst they present their submission you should be present so that you could listen at what they are saying so you are most welcome to listen to what the Kwazulu Government has to say in its admission. Dr Ngubane, over to you.

DR NGUBANE:

Thank you Mr Chairman, ladies and gentlemen. The Kwazulu Government want to state today his position regarding the negotiation process in the most emphatic manner possible. The Kwazulu Government wishes to submit a motion as a preliminary matter which would condition the development of today's Agenda and the future work of this negotiating council. The Kwazulu Government is extremely concerned about the course that the negotiations have taken. It is clear that many of the principals adopted by the Technical Committee on constitutional matters in this report would not be compatible with the federal system and would describe the relation between central and regional levels of government which is in conflict with the Kwazulu Government proposal for a federation. More over, many of the Technical Committees are working under the implicit or explicit assumption that the process of transformation would be based on the true face transition model requiring interim arrangements. The Kwazulu Government has endorsed the one phase model proposed by the IFP Party as other participants in the process have done. The entire 4th report of the Technical Committee on constitutional matters as well as the work of the Technical Committee on human rights are based on this assumption. We submit and maintain that this Council cannot make any intelligent decision on constitutional principles or on the process until and unless it is provided with a clear alternative between principles related to federalism and principles related to elite state, and between a process capable of establishing federalism before the next elections and open ended process which relies on the discretion of a Constituent Assembly for the final determination of the parameters of a political settlement of this country. We feel that we are entitled to receive and consider both alternatives and that the Technical Committee should be instructed accordingly. We maintain and submit that no final decision has been made on the process of transformation on the form of state and that this decisions can no longer be delayed. We demand that the Negotiating



Council begins to consider proposals for the establishment of a federation and a fully fledged constitution to be drafted by this forum. We also submit and maintain that no election date can be determined until there is clarity on the issue of the process and the final determination on the former state. It is unreasonable to set an election date when we do not know what type of stages and phases need to proceed the election and what the purposes and functions of that election are going to be in the process of constitutional development of our country. Differently put, we are going to vote for the election of a Constituent Assembly. Are we going to vote for the election of a Constituent Assembly or for the empowerment of a federal legislator under member states, having already been established. Accordingly, the Kwazulu Government is submitting a resolution which will put these matters on the Agenda of the Negotiating Council with urgency and priority. We feel the obligation to warn all participants that the Kwazulu Government has reached the end of his road in tolerating the manipulation of this process which has steam rolling through the real issues of our society, preventing full awareness and full debate on the possible alternatives. Therefore, the Kwazulu Government hereby gives notice that should the Negotiating Council reject the Kwazulu Government to resolution as proposed, the Kwazulu Government is no longer willing to provide this consensus for any further decisions taking by this Negotiating Council or by any other body of this negotiation process. We will continue to be present through discussions, but irrespective of anything that we may say or do until a preliminary determination on the former state is achieved and a process capable of establishing federalism is surely entrenched, nothing shall be construed as our providing consensus for any type of decision whatsoever including procedural matters, scheduling of meetings, establishment of committees, adoption of resolution of any nature, press statements, administrative matters and any other matters of substance or procedure. The Kwazulu Government hereby announces that it will challenge any ruling of the Chair determining the sufficient consensus has been achieved, in spite of Kwazulu Government opposition. We do not want to disrupt negotiations, and will implement what we consider a constructive form of ..... until there is clarity on the process and our demands are heard for the sake of South Africa. These should also offer the opportunity to break the wall of silence built with the press around us. We also give notice to all participants that will resort to the additional stab of withdrawing even from participation and discussions if we access that discussions are subject matter other than the form of state and process and violence are getting ahead of the issue of the form of state process and violence and are becoming prejudicial to a preliminary determination of the form of state and related process. We will not find ourselves in this situation where anybody can claim that progress has been achieved and then attempt to label us as spoilers because we prevent the finalisation of any agreement before federalism is entrenched and the climate of serene and violence free negotiation is secured. Whoever pushes negotiations on the basis of a two stage process, centred around the Constituent Assembly, and the denial of federalism and in spite of the fact that we are not promoting consensus we will be politically responsible for the withdrawal from negotiations of the Kwazulu Government. These Mr Chairperson are profound feelings and thoughts from our people as represented by the Government. We believe further Mr Chairman, we believe further that upto now it has been denied that federalism constitutes a constitutional principle. We challenge this session, if we were to say that we want to build a state that will be a



democratic state, that will be a constitutional state based on the rule of law and that it will be a federal state. Anywhere in the world would know what we are talking about and what we mean. It is only here that we find this absolutely impossible to stage as a principle. I therefore submit our motion Mr Chairman for consideration. Thank you.

The Chairperson would want me to read the motion?

MR CHAIRMAN:

It would be more better for us if you can read the motion. Just go through the motion quickly, your submission quickly.

MR NGUBANE:

The delegation of the Government of Kwazulu proposes that the following instructions be passed onto the Technical Committee on constitutional issues. One. That the Technical Committee on constitutional issues reconsider his attitude on the issue of asymmetry. That the constitution of the state of Kwazulu, Natal which forms part of the documentation of the Technical Committee should be considered as an immediate option for state regional government. Together with any other state regional constitutions which will be submitted to the Negotiating Council. That the Technical Committee on the powers and functions of regions should incorporate in its report the option for asymmetry of the provisions of the constitution of the state of Kwazulu, Natal and any other constitution submitted to the Negotiating Council. That the Technical Committee should submit a report in accordance with the above within one week from today. Thank you.

MR CHAIRMAN:

Thank you Dr. Ngubane. We have another resolution in front of us, maybe just to facilitate the discussion, we should look at also a resolution from the IFP and then afterwards we see how we deal with the two resolution in front of us. Maybe, I should at this point in time give Mr Matthews to deal with his resolution. Mr Matthews.

MR MATTHEWS:

Thank you Mr Chairman. I just read the resolution sir. It's a resolution on constitutional issues and reads 'we the participants of the multi-party negotiation process convene on this 15th day of June 1993 in the Negotiation Council have adopted this resolution to guide the further development of the negotiation process. Having noted the clear linkage between constitutional principles the form of state, the constitution making process and constitutional structures, powers and functions of the SPR's. It is resolved that, 1, the Negotiating Council shall not proceed to negotiate and shall not endeavour to agree on the constitutional principles recommended by the Technical Committee including the principles related to the identification of powers and functions of the SPR's until the Technical Committee has reported to the



Negotiating Council on the various alternatives on the constitution making process. 2. The Negotiating Council shall consider inter-alia proposals for 2.1 a fully fledged federal constitution inclusive of a complete Bill of Rights compatible with the highest international standards of human rights protection. A jurisdictional constitutional court and standard procedures for constitutional amendment. 2.2. A constitution making process capable of capitalising on and registering, ground up democracy building sub-processes such as the adoption of the constitution of the state of Kwazulu, Natal or the Sudswe initiative and capable of co-ordinating ground up constitutional development with top down negotiations. 3. The Negotiating Council instructs the Technical Committee on constitutional issues to make recommendations to it on 3.1. the powers, functions and structures of the SPR's in the next constitution of South Africa, with a view to leaving residual powers to the SPR's and ensuring that the new SPR's are established as a federation of states prior to or at the same time as the next elections. 3.2. The Constitution making process to be followed including the structures that need to be established so as to finalise the next constitution of South Africa on the basis of a one phase process which relies on ground up democracy building sub-processes to support the creation of SPR's. 3.3. The procedures to be followed in the drafting and in the adoption, by the multi-party negotiating forum of a federal constitution, which would establish a federal system prior to or at the same time as the next elections. 4. That any final determination of the election date be postponed until the Negotiating Council has adopted a final decision on the form of state and on the process of constitutional development which would lead to elections, in order to enable us to determine what phases must precede and prepare elections and the function and purposes of elections at central and regional levels in relation to the next constitution of South Africa. I move sir.

MR CHAIRMAN:

Ok, thank you. I will then request that delegates maybe to guide us how to deal with this two matters. I have first Mr ?? then Prof. Ripinga, then Mrs Gouws.

MR GOUWS:

Mr Chairman, I just want to ask a question. Shouldn't these resolutions be adopted first or seconded at least? I didn't mean adopted but at least seconded?

MR CHAIRMAN:

Well, that's why I want the house to guide me, how to deal with the two issues in front of us right now. I want a guidance. Mr Webb you are the first with your hand up.

MR WEBB:

Mr Chairman, I would like to suggest that you cannot conveniently deal with both motions at the same time. That we should deal first with the Kwazulu Government's and then move to the next one sir.



NR CHAIRMAN:

We deal with the Kwazulu Government motion first and then thereafter deal with the IFP motion.

MR WEBB:

And I would have the pleasure in

MR CHAIRMAN:

Alright Mr Cronje. I'm sorry Mr Pindaan sorry then Mr Cronje.

SPEAKER:

Mr Chairperson, I wanted to make a proposal, that before dealing with this matter we actually break for tea.

MR CHAIRMAN:

He moves that we should break for tea before we deal for the matter. Ok. I have Mr Cronje.

MR CRONJE:

Mr Chairman, I think the proposals that have put forward really gets to the bottom line of the questions which the Technical Committee has been asking of us in all their reports. These are very important proposals and they are fundamental proposals. They also relate to the issue of the election date which this council has already decided should be referred to the Planning Committee. I just wonder if we shouldn't adjourn for tea and allow the Planning Committee just to get together quickly to discuss this.

MR CHAIRMAN:

Ok, Mr Ramaphosa.

MR RAMAPHOSA:

Yes, Mr Chairman, I think there's a proposal that we should go for tea, but I had wanted to get into the substantive debate because this is clearly an attempt to blackmail the negotiation process. But I think we should get into that when we return from tea.

MR CHAIRMAN:

Ok, there is a suggestion that we should break adjourn, go for tea and then come back.

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SPEAKER:

Point of what there is we tabled our motion, we at least expect this house to second it. Not going to substantive debate before it has been seconded.

SPEAKER:

Point of order Mr Chairman.

MR CHAIRMAN:

Mr Gordon

MR CHAIRMAN:

I think you will recall that in the proposal that was accepted from myself, we said that when we get to this item on the Agenda, the people concerned would be given an opportunity to put their motions on the table, present them to the house and at that stage we will decide whether they are as what Mr Webb called intervening motions, or whether they can be dealt with separately. I think that is what precisely the issue on which Mr Chairman we are saying let's adjourn, let's have a Planning Committee discussion, let's see if we can find a constructive way of dealing with this matter.

MR CHAIRMAN:

It's exactly what I am doing, I think I was guided properly before time that when we come to this issues we will follow exactly what we are doing.

SPEAKER:

Mr Chairman, point of order please. Any motion put to the house has to be seconded.

MR CHAIRMAN:

Ok, Mr Langley.

SPEAKER:

We have pleasure ....

SPEAKER:

I second the motion both of them.

MR CHAIRMAN:

Can we adjourn for tea. Let's adjourn for tea. The Planning Committee should meet

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and we'll come back at quarter past eleven. Adjourn for tea.

To allow the Planning Committee to look at the mechanism in which we could attend to the matter in front of us, especially the two resolutions. One table by the Kwazulu Government and supported it and the other one by IFP. So the Planning Committee met until now and maybe it would be a wonderful thing to get a brief report from the Planning Report reporting back to this council and then thereafter I will direct the house how we are going to proceed. I will at this point in time request Mr Meyer to report, who's been Chairman, Mr Cronje I'm sorry to whose been the Chairman of the Planning Council to report on the issues which has been discussed by the Planning Committee. Mr Cronje?

MR CRONJE:

Chairman, first of all, may I on behalf of the Planning Committee apologise to members of the Negotiating Council and to members of the press for the delay. But obviously the issue in front of us is not a simple one and after considerable discussion not only by the Planning Committee but also involving the Sub-Committee, the good grace of the Technical Committee to give further information on important aspects. We have a situation where we have in front of this Negotiating Council as you have indicated Mr Chairman, the resolution on the part of the IFP which was seconded and that of the Kwazulu Government which was seconded. But after having discussed it, by majority decision the Planning Committee is submitting a proposal to the Negotiating Council. I trust that that proposal is in front of everyone. It reads as follows : 'That discussions in the Negotiating Council continue on constitutional principles and other reports of the Technical Committee that are before the Negotiating Council. Request the Technical Committee on constitutional issues too.

1. Consider the constitutional options for state provinces regions government which may have been submitted to the Negotiating Council.
2. Consider a constitution making process providing for a ground up democracy building process and
3. To submit recommendations to the Negotiating Council on this.

and then third, the Negotiating Council deemed it important to bring the following under the attention of the Negotiating Council again. The Planning Committee did. That the explanatory memorandum accepted by all participants on the 30th April this year in the Multi-Party process relating to proposals arising from the Multi-Party Forum resolution on the negotiating process is re-affirmed and that the Negotiating Council specifically reiterates its acceptance of paragraph 6 of the explanatory memorandum. In fact, we have no choice but to accept it because it was a decision made higher authority and that is item 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 a 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 this 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. In short, Mr Chairman what that means is that we are dealing with different subject matters, with different aspects. Agreement could be



reached on each of these, but final agreement is reached once the holistic picture or the full picture is available at the end of the process.

MR CHAIRMAN:

Thank you Mr Cronje. So that is the resolution from the Planning Committee which is now I think is circulated all of the member of the Council. I just want to note one issue that this resolution come from the Planning Committee and there were some of the members of the Planning Committee Mr Cronje I believe who had reservations with this But it is now ...

MR CRONJE:

No, they disagreed, they did not have reservations.

MR CHAIRMAN:

Ok, so it is put in front of you now.

MR CRONJE:

Quite clearly there was sufficient consensus in the Planning Committee in this resolution./

MR CHAIRMAN:

Ok. Mr Meyer.

MR MEYER:

Mr Chairman, maybe I should just elaborate a little bit on the resolution before us, since it originally came from myself. I would like to explain a little bit with the view with trying to address the matter before us. In the first paragraph Mr Chairman, we address what have already been resolved before I believe by the Negotiating Council in process of discussing the constitutional matters before us. The 1st June it was inter-alia resolved first paragraph of that resolution addressing the process discussing this constitutional matters that the Negotiating Council proceeds to negotiate and endeavour to agree on the constitutional principles recommended by the Technical Committee I set out in paragraph 2 of its third report and the detailed principle dealing with the allocation of powers to different levels of government as set out in paragraph 3 of its third report. This resolution Mr Chairman, this paragraph 1 of that particular resolution, I believe was particularly adopted on account of paragraph 6.3 of the second report of the Constitutional Committee which I would also like to read. It says: can the difference that exist in regard to the process be resolved that is the process relating to constitution making and then the Technical Committee said the possible solution which may be worth exploring in an Negotiating Council is the careful and sensitive formulation of mutually acceptable principles of regional government. Added with constitutional principles and provision for the democratic



creation and adoption of a final constitution. It was on that basis Mr Chairman since also that report was on the consideration by the Council that particular paragraph as such that I believe this resolution was adopted on the 1st June regarding that particular paragraph. And for the sake of clarity Mr Chairman I think it is important to emphasise that it could be true that paragraphs 2 & 3 of that particular resolution were not accepted by all members at members indicated afterwards that they had reservations about paragraphs 2 & 3 of that particular resolution of the 1st June. But I would suggest that paragraph 1 generally was the inclination to move forward on as also indicated in the last paragraph of this motion now before us i.e. the explanatory memorandum of the 30th April that paragraph 6. Now Mr Chairman, this means that we have before us further reports from the Technical Committee dealing with constitutional principles, principles relating to regions and also in the 5th report Mr Chairman a broad outline of an envisaged constitutional framework that could provide for the constitution for the transitional period. And Mr Chairman, in that regard it is then the emphasis of this resolution, this draft resolution before us in paragraph 1 to say let's continue on the basis that we have already indicated to consider and to discuss the constitutional principles and the other reports from the Technical Committee. But at the same time Mr Chairman, with a view to address the problems being raised by Kwazulu Government & the IFP this morning, we also suggest in paragraph 2 that especially the matters being indicated regarding the process that I refer to the statement read out by Dr Ngubane this morning, as well as the resolution read out by Mr Matthews. In particular paragraph 2 of the proposed resolution of Mr Matthews that we have indicated in the Planning Committee that a view to resolve also the points of difference that might exist that we should ask particularly the Technical Committee on constitutional matters to go into these questions, two questions in particular i.e. a constitutional or the constitutional options regarding regional government, provisional government or state governments during the transitional phase and that they should consider this Mr Chairman and bring forward reports or a report on this matter to the Negotiating Council for consideration. We believe there are before the Technical Committee various omissions in this regard inter-alia presented to the Technical Committee by Kwazulu or the IFP. Definitely also being a submission by the South African Government and equally so by other parties and on the basis of this, we believe that the Technical Committee have not yet attended to these submissions regarding especially the question of constitutional options for FPR governments as far as the government is concerned and that they should consider it from that angle and make recommendations in that regard. Secondly, that they should also look at possible submissions in regard to a constitution making process providing for a ground up so called democracy building process and that this matter also be attended to specifically by the Technical Committee and to make recommendations on that. We believe Mr Chairman that through that paragraph 2 especially of Mr Matthew's draft resolution of this morning, can be addressed and that the Negotiating Council can then proceed for recommendations from the Technical Committee on these two matters in addition to the reports already before the Council. This we believe Mr Chairman, would sufficiently address those areas of further concern being raised by Dr Ngubane and Mr Matthews with a view to allow us to have an overall picture a final instance which the Negotiating Council can arrive at decisions as far as the whole package of constitutional matters that are being referred to Mr Chairman in the very last sentence



of this drafted resolution now before us and I want to read it again. 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. Through that Mr Chairman, we believe we can come to a position where the Negotiating Council in the final instance can arrive at a situation where they can give good consideration and resolutions arriving at the solutions in that regard.

MR CHAIRMAN:

Thank you Mr Meyer. Maybe, let us treat this matter this way. We have listened to members of the Planning Committee Mr Cronje has introduced the subject and Mr Meyer has actually elaborated on the issue. When we adjourn, before lunch I remember very well Dr Ngubane was actually asking me whether can't I ask for a second of their motion and I didn't do that. I just want to find out do we have a seconder for Kwazulu submission. Mr Langley seconded the IFP not Kwazulu.

MR LANGLEY:

I said, I said both.

MR CHAIRMAN:

You said both.

MR LANGLEY;

Yes

MR CHAIRMAN:

Did I accept that.

MR LANGLEY:

Yes.

MR CHAIRMAN:

I didn't accept that. Can you support formally?

MR LANGLEY:

Mr Chairman, I supported the resolutions proposed by both Dr Ngubane and Mr Matthews.

CHAIRMAN:

Ok, fine. Now both proposals from Kwazulu and by Inkata are seconded by Mr

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Matthews. I'm sorry Mr Langley. We now have three proposals in front of us or three resolutions in front of us. When the matter is being debated in the Planning Committee, the Technical Committee has been asked to come in and explain certain issues and it has been agreed in the Planning Committee that we will before again allow the people to deliberate on this issues. Allow the Technical Committee just to briefly give their feeling of the whole issue to the Council so that everyone of us has the background of the whole issue and then I will from there allow discussion on these matters. I will then give this time to the Technical Committee.

DR VENTER:

Thank you, Mr Chairman. May I just before I go into the meat of the matter point out that one of our members Mr Bernard Webber is not with us today. He is abroad and will be so for the next two weeks. He was however involved in the drafting of all reports before you. Mr Chairman, I would like also as part of the perspective on this whole matter say something about the Technical Committee consisting of 9 members. The Technical Committee as you know is composed of lawyers coming from rather wide ranging spectrum of backgrounds regarding training and activity in professional life. We have however been at pains all along to produce our reports unanimously and all the reports before you have been produced unanimously. We have also had quite a lot of discussions on the nature of our instructions and the nature of our function as a committee which is required to facilitate the negotiation process. Therefore, we have consistently taken our instructions from this Council and from nobody else. Which also explains some of the positions that we have taken in our reports. I would like to refer you to begin with Mr Chairman to paragraph 6 of our supplementary report which is in the documents that I have on page 19 and written page 19, page 6 and 7 of the report itself and we consider it of such importance that we would like to read it again. Paragraph 6.1 reads we have received comments and questions from certain participants on matters raised by us in our third and fourth reports, some requested us to undertake research and provide them with advise. We consider that this is the responsibility of the participants themselves and not our responsibility. Some of these admissions seek to re-open issues which we understood to have been resolved at the meeting of Negotiating Council of the 3rd June 1993. I believe its another possible reference is page 85, Addendum 58, and that we consider that we can only do this if instructed to do so by the Negotiating Council. Some of these submissions raise issues relevant to the debates which are still to take place on our third and fourth reports which will be presumably be raised by the participants concerned when these reports are debated in this Council. Paragraph 6.2. We are concerned that if we are expected to reply in detail to all the issues and questions raised with us, by participants, we will be diverted from the tasks assigned us by the Negotiating Council and then will be unable to address them efficiently and expeditiously. We have considered all the submissions made to us and are of the opinion that there is no need to add to this report that was the third report which in our view is complete and sufficient and to facilitate a debate in the Council on all relevant issues. Now, Mr Chairman, concerning our instruction, of the instructions that we have from this Council, as appears from our reports and we quote from the resolutions passed or considered by this Negotiating Council we had to work on the draft resolution of the 1st June which



has been in contention in the last meeting or two of this Council. We gather from the debate that although everything in that draft resolution was not accepted or adopted by every party. The instruction to us containing paragraph 3 of that resolution was the instruction that we should follow and we do so Mr Chairman, I must emphasise on behalf of the committee with the wish not to be drawn into the political debate that is not our function. The instruction to us in the draft resolution is contained in paragraph 3 in which the Council instructed us to make recommendations on the powers, functions and structures of the SPR during the transitional period. The constitution making process to be followed, including the structures that need to be established for that purpose, the procedures to be followed in the drafting and adoption of the Multi-Party Negotiating Forum of a constitution for the transitional period and fourthly to regarding the procedure to be followed thereafter in the drafting and adoption of a constitution by an elected constitution making body. Now, Mr Chairman, there are two concerns especially that have been raised by different parties and in the resolutions before the Council today. The first one is the question of the process, whether it should be a one or a two phase process. And I would like to reference to our second, third and fourth reports point out to you how we have worked on this question and how we have detected and are attempting to facilitate the present debate in the Negotiating Council. In our second report, on page 12 on that report, if I have the same document as you, its the handwritten page 22. In paragraph 6.3, which Mr Meyer just now quoted as well, we started indicating that the differences regarding process maybe addressed in a particular way after we in that report set out the different approaches and tried to summarise them. And we said a possible solution if I may read it again, which may be worth exploring in this Council is the careful and sensitive formulation of a mutually acceptable principle of regional government adequate constitutional principles and provision for the democratic creation and adoption of final constitution. This Mr Chairman we followed up in our third report in this first paragraph, paragraph 1.1 handwritten 24, which I am also going to read to you. We were requested by the Planning Committee to develop our second report on constitutional issues, so as to formulate a comprehensive set of constitutional principles and in particular principles on the powers and functions of regions to serve the purpose suggested by us in paragraph 6.3 which we have quoted of our second report. Now, this Mr Chairman, we followed up in our fourth report. In my document handwritten page 37 paragraph 4.3 and this is a very important part of our report regarding the process. It reads as follows: 'as long as the democated boundaries are broadly acceptable, those are the boundaries that are being democated at this stage by the commission that has been appointed by this Council. The way forward we suggested could be the acceptance of a model in which firstly, provisional regions are established in accordance for the democated boundaries at the time of the implementation of a constitution for the transitional period. Secondly, provisional regional authorities are established on the basis of the electoral results within such regions. Thirdly, powers consistent with criteria such as those contained in our third report are then vested in the provisional regional authority. And lastly, such powers are then stated in general terms and are made subject to supervision of the constitution making body. In this manner, Mr Chairman, we wanted to suggest that it would inpebble the meeting of the concerns of the two dimetically opposed views regarding the process. Namely, the one phase and the two phase on the following page we say that this should enable the



foundations for SPR Governments to be established during the transition and then the necessary rationalisation to be undertaken without finalising the precise boundaries of the SPR's and the precise areas of competence of the different levels of government. Regarding the second issue, Mr Chairman, which has been raised often and again today, the matter of federalism. We are suggesting in our third report the one which this Council was discussing at the previous meeting but which discussion has not as yet been completed. We thought that those principles do basically the same. Namely, to address the concerns of various approaches to a transitional constitution and to this question of a unitary versus a federal state. The principles that I think once should emphasise, for this purposes are principles which have not yet been discussed because only paragraph 2 concerning principles of Agenda constitutional nature was covered by the discussion last time. The principles that are relevant to the question of federalism or composite state as opposed to a simple unitary state are to be found for example in paragraphs 3.2, 3.3, 3.4, 3.5, 3.6 in which elements which strongly indicate that a final constitution must provide for SPR dispensation which is not typical of a simple unitary state are contained. Such, for example, at each level of government there shall be democratic representation. I don't propose to go through all of them but only to indicate for example 3.5 where it says which is made of exclusive and concurrent powers for those SPR governments and also typical of composite states in 3.6 each level of government shall have fiscal powers which will be defined in the constitution. Now, the suggestion here in the context that these should be principles in the process ahead from which a constitution making body cannot deviate in the formulation of a final constitution. I would also like to refer you to the next page paragraph 3.9.1.2 where it is said that the national government and these are the criteria for the allocation of the powers and functions SPR governments. The national government shall not exercise its power as to encroach upon the territorial functional and institutional integrity of SPR's. Now, it's not typical of a simple unitary state to have mention of the geographical functional and institutional integrity of states, provinces and regions. Finally, Mr Chairman, regarding this matter, the last sentence of that report which is still to be discussed states very clearly that the final model and this is an indication from the on the part of the Technical Committee in order to assist the debate in this Council the final model should be one which inter-alia is financially viable and conducive to effective public administration and which promotes national unity, legitimate regional autonomy and cultural diversity. These we would suggest, Mr Chairman, are strong qualifications on any view that there is a constitutional system emerging or a picture or a model emerging from our reports which is simply unitary. Regarding another matter which has been raised in some of the discussion and proposals this morning, is the matter of asymmetry. We have not as yet had the time to do more regarding asymmetry than we have done in our third report on page 8 of that report handwritten 31 & 32 where we try to flesh out the notion of asymmetry and in that process we thought that we actually went further than any of the submissions that we have received on this question of asymmetry because we try to analyze it scientifically and to suggest a framework within which asymmetry can be discussed and possibly developed. It is still in other words a matter which will require debate. Now, Mr Chairman, it is not our place to take part in the discussion of a resolution, but I think it is necessary to indicate to you, that the kind of instruction that the Planning Committee seem to contemplate to give this Technical Committee is well within the



framework of our activities. Paragraph 2.1., of the draft resolution um really has to do with what we have mentioned in our fifth report also still to be discussed uum in our fifth report at the end page 13 handwritten 52 in my documents, we say under the heading Outstanding Matters, the issues concerning the SPR's during the transitional period raised in a previous paragraph will be addressed by us in the light of the debate and the decisions taken in response to our third and fourth reports. That is, it seems to us, exactly what is intended in point 2.1. in the resolution before you. Regarding the matter of the constitution making process providing for a ground-up democracy, we have received various submissions, we have studied them we have not had much occasion and time to debate them uuh but I would suggest that and I believe my colleagues in the Technical Committee will agree that this would be a viable instruction to the Technical Committee in view of what we have already prepared and studied. Thank you Mr Chairman.

MR CHAIRMAN:

Thank you Mr Venter. I think you have now listened. Uhh, the remarks by the Chairman of the Technical Committee. He gave these remarks to enable all the representative here to have a broad understanding of what is in front of us now, before we can start with the debate. There were not actually delivering their actual report, but they were just giving an overview in relation to the resolutions that we have in front of us. I think we going to deal this with this matter this way Mr Cronje you want to speak first? Ja, I have got you on the list Mrs Gouws. I've got to, I've got to I've got Mr Webb, I've got Ngubane I think who registered first before I stopped you. But I just want to try to maybe give a direction as to how we can deal with this matter and if it is not acceptable you will guide the Chair then what how we should go about it. I was going to say this that seeing that we have the motion, I'm sorry the resolution from the Planning Committee in front of us, I think it will be proper for me to ask Dr Ngubane as a mover of the resolution from Kwazulu Government the motion from Kwazulu Government whether he would like like to continue that we debate that in the Council, or maybe he would waive that now resolution from the Planning Council is in front of us. Is for him to indicate he has or now maybe. If you could indicate Dr Ngubane then we know where we stand.

DR NGUBANE:

Thank you, Mr Chairman. We did discuss the matter in the Planning Committee. We agreed that the Kwazulu Government resolution or draft resolution, does overlap with the IFP resolution. We were willing as the Kwazulu delegation to register our motion in the minutes of this Council, without necessarily going into debate over the draft from the Kwazulu Government. But we are supporting the IFP resolution and we debate in support of that resolution. We still maintain Mr Chairman, that the issue raised in this Council by Kwazulu and joint in that by the IFP, is of material importance to the business of this Council and it must be debated as such in this Council. We also want to state that the resolution of the Planning Committee ...

MR CHAIRMAN:



Don't get enter into a debate Dr Ngubane.

DR NGUBANE:

I'm not entering into, I'm just saying why I still want our resolution to be debated. Is that, what has been put forward is the key to unlock the problem and the difficulty by the Planning Committee does not even start to unlock that problem and that difficulty.

MR CHAIRMAN:

Thank you, Dr Ngubane. Maybe, I should then put the same question to Mr Matthews.

MR MATTHEWS:

Thank you, Mr Chairman. Sir, this problem would not have arisen if we had stuck to our full decisions regarding the agenda in the way it should be handled. We had decided that the issue of violence would be dealt with first and subsequently the issue of the form of state. Now, what this resolution does, is to restore to the agenda a debate on the form of state. That is really what it is doing. It is nothing new in it. It is to restore discussion, debate on the form of state and I regret to say the draft resolution by the Planning Committee still doesn't really deal with that issue of bringing us back to discussion as a preliminary and initial issue. The question of the form of state we should then inform all the work that proceeds thereafter in the Technical Committees. So we are still insisting that there should be a debate on the resolution that we have submitted.

MR CHAIRMAN;

Thank you Mr Matthews. So this leaves me now with two resolutions in front of you. The resolution from the IFP and the resolution from the Planning Committee that we need to discuss. So I was going to suggest that we maybe then start discussing the resolution from the IFP concludes the matter and then discuss the resolution from the Planning Committee and then conclude that matter too. I think that is the line of procedure that we need to follow at the moment.

MRS GOUWS:

I am sorry Mr Chairman, that you are pushing me to become amazonian. I have asked to speak to the Council the moment we reconvened. Because what I have to say has to go before everything that has been discussed so far and I have tried in vain to get your attention just to get me that opportunity to say something. So we must not discuss these resolutions before I have made my point please

MR CHAIRMAN:

Ok, Mrs Gouws you are given the chance to discuss. It's now your chance.

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MRS GOUWS:

Mr Chairman, I want to state as strong as I can, my rejection of the procedures that we are now following. The Planning Committee is taking over slowly but surely no not even slowly definitely surely. The place of this Council, this morning was tabled on our tables the really substantive issue that should have been discussed. I want to quote for you from the fifth report of the Technical Committee which will substantiate what I am saying. If you will go to page 7 at the bottom it says a two phase process with built in checks and balances referred to in their previous reports it is a possible solution' and then he says 'to this difference

MR CHAIRMAN:

Sorry Mrs Gouws, sorry

MRS GOUWS:

The fifth report

MR CHAIRMAN:

The third report

MRS GOUWS:

Yes

MR CHAIRMAN:

What page?

MRS GOUWS:

The fifth report, page 7 and 8

MR CHAIRMAN:

Page 7 and 8?

MRS GOUWS:

That's right. 7 & 8. The handwritten ones. And it states there, this difference which is one of the most fundamental of all the differences between the parties. Now I want to refer back to page 7 and I want to read you this fundamental differences which the Technical Committee did pick up and which we are refusing time and time again by our procedure to to to go back to the Planning Committee and not coming into what we should be doing in this Council and that is negotiating. In the middle you will read 2, 4,6, from the bottom it is the difference to which we have consistently

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referred in our reports, between those and here is the fundamental issue who believe that the new South African Constitution should be drawn up and adopted by the Multi-Party Negotiating process and those who believe that it should be drawn up and adopted by an elected constitution making body. The two resolutions in front of us this morning Mr Chairman for the first time placed this fundamental issues on the table to be discussed and negotiated. We just started when the Planning Committee decided they must now go out and to give this process a push, decide on a new resolution which will again side track us from this issue. They took 5 hours Mr Chairman in that 5 hours we could have discussed this issues to the point we are moving further and further away instead of coming nearer and nearer that is what negotiation is all about. Is to negotiate so that we can come nearer to each other and move further away from each other. And if we don't discuss this now Mr Chairman I can only see problems before us so big. We must not run away from fundamental issues that is why we are a negotiating council and the Planning Committee is taking over all our responsibilities. The Technical Committee referred to then twice I will I will quote they said 'we were requested by the Planning Committee' that is in their third report they must be requested from this Council Mr Chairman not from the Planning Committee and again if they said uuh the Planning Committee I think the Planning Committee contemplates to give to this Technical Committee we must must give to the Technical Committee Mr Chairman, not the Planning Committee. If this is the procedure we are going to take from henceworth then we can go home then we can appoint the Planning Committee and they can discuss our future and they can bring it to the forum. Please Mr Chairman, and honourable council, you are here to discuss and negotiate the future South Africa, please do that and don't run away to the Planning Committee every time something comes up where I have to pull out the hair of Mr Matthews. Let me pull it out, I will give it back to him afterwards. But this is what we are here for.

MR CHAIRMAN:

Ok, thank you Mrs Gouws. Anyway the resolution from the IFP is in front of us and we are going to discuss that resolution. The resolution is open for discussion. I have uuh Mr Webb?

MR WEBB:

Mr Chairman, I would like to purpose my remarks by saying that uuh the information given to us by the Technical Committee was most useful. I have great difficulties in perceptions and perceptions of their presentations has been expounded by their Mr Prof. Venter's statements today so I am very grateful for that. Mr Chairman, I was one of those who in the Planning Committee will recall Mr Cronje's stated that the Planning Committee had achieved a proposal by sufficient consensus I was one of those people who did not agree with that sufficient consensus, so I state my position at the outset. Mr Chairman, we re dealing with the resolution proposed by the IFP. Paragraph 2 provides for statements regarding 2.1 proposals that we need to see as a separate picture. At the moment we have a single picture and we believe that it is necessary and in support of the IFP proposal to have all models on the table, more particularly if we look at paragraph 3.2. the second last line that we should receive



a presentation from the Technical Committee on the basis of a one phased approach. Now, I'm not piggy backing on Mr s Gouws is saying because this is our view. The very the simplistic reason that I give your sir, is that my constituency and my principles are at present in a an administration government. The very essence of their existence is taken away by the assumptions which are made by the Technical Committee. And the assumptions that the Technical Committee make are that the TBV states will re-incorporated. I speak for nobody else, but the Ciskei Government it is not the Ciskei Government's intentions to be re-incorporated until all of these matters have settled so that the future dispensation can be tabled and the people who live there can be aware of that dispensation. It is very important therefore Sir, for us to know exactly what is to be proposed in the new dispensation and the resolution of the IFP will provide us with that knowledge. At the present time, there is insufficient information the assumptions are made on re-incorporation. It is not possible for me and my constituents or my principal as opposed to principles to make an informed decision. Therefore, we ask that this resolution be supported that the Technical Committee come back with the information which is requested in this resolution by the IFP so that we can make an informed decision and proper instructions from our leaders. Thank you. Sir.

MR CHAIRMAN:

Do I understand you well, Mr Webb, what you actually saying is that uuh this resolution could be sent to the Technical Committee and they could come back to the Council with a full report about it.

MR WEBB:

That's exactly right sir. I support the resolution in its ...

MR CHAIRMAN:

Ok, thank you. Uuh Mr Cronje, do you still wish to speak.

MR CRONJE:

I actually wish to speak to Mr Meyer when you raised it Mr Chairman. I will waive my right on this occasion, I might come back later.

MR CHAIRMAN:

Ok, thank you. Miss Kgositsile from the ANC.

MISS KGOSITSILE:

Thank you Mr Chairperson. I would like to start off by saying that I agree with Mrs Gouws that it is regrettable that the time of this Council has been wasted today. So may hours have gone down the drain when our people thought that we had come here to engage in a variable exercise that would actually determine their future in a very



real sense and that today we would come out here actually proud that we would have made progress. But in fact the Planning Committee all these hours and still come back without an amicable way of solving the problem. Mr Chairperson, my own view is that in the first place even before we address the content of the resolution before us, we need at this house to comment on the spirit with which the matter was introduced to this council. An I on behalf of the ANC would like to say that we reject the negative spirit the blackmailing approach that was adopted when the motivation was presented to this house for the resolution from the IFP. Mr Chairperson, I'm still on the floor.

MR MATTHEWS:

Presentation made by Dr Mokoena. The resolution we are discussing now is one which was introduced by myself on behalf of the IFP and it had no statement attached to it. No motivation, it just was a reading of this resolution. So I think she better refer to the correct targets and not to the mover of this particular resolution.

MR CHAIRMAN:

Thank you Mr Matthews.

MISS KGOSITSILE:

Mr Chairperson

MR CHAIRMAN:

Miss Kgositsile

MISS KGOSITSILE:

Can I proceed to still say what I was saying and that is I am dealing with the motivation that was delivered by Dr Ngubane, but which in fact to the dismay of this house of some of us was actually motivating for the resolution from the IFP. Actually created confusion in our heads, because the content of that motivation actually addressed itself not to the resolution from the Kwazulu Government but was actually addressing the resolution from the IFP. And I would like to say that Mr Chairperson it is not acceptable that when this house has an agenda and when it has in its programme the matters that are being dealt with it is phased with and approached that is actually saying you either agree ahead of time on this or else we walk out or we mess you up. We think that it is not the spirit with which the negotiators who are in this room are would like to approach the future of the country. I think we must be very clear in our minds as to why we are here. We are here not for minority interests. We are here for the interests of the majority of the people of this country who are not in this room who are out there, who hardly even understand the up and down we are doing and the dilly dallying and why we have wasted three years and we are not yet coming even with a concrete date and saying date and in fact move everybody and lead everybody very very conclusively to what a new



government a new South Africa which we would like to negotiate here not in the spirit of saying you either agree with what I say is ANC or what I say as injasa or else I walk out and and treat people like that. I think first and foremost we got to get rid of that kind of approach Mr Chairperson. I think it is not acceptable, we come here to negotiate not to to blackmail one another and the matters that are being raised in this resolutions are actually on the agenda. The Constitutional Committee has drafted upto a fifth report today and each report has been looked at by this Council and to the IFP delegation was part of this Council when it gave instruction after instruction after hearing each of the reports from the first report upto to to today. I think Mr Chairperson the first point I would like to really make and make emphatically is that the spirit with which the matter was raised here in this house is totally unacceptable. Thank you Mr Chairperson. I would then like to propose that in fact we we access after some time after some remarks from this house as to how much support this resolution has and after having satisfied ourselves whether it does have sufficient consensus for each to even be entertained beyond another few minutes we then get on with the business of this house. Thank you Mr Chairperson.

MR CHAIRMAN:

Thank you. My next speaker is Mr Eglin.

MR EGLIN:

Mr Chairman, I will not be able to talk positively in respect of Mr Meyer's motion because that will come up just now. But it is in fact accounted to the resolution from the IFP. May I say this, I want to respond because I think there is a is a edginess there is a uncertainty there is even a degree of mistrust has developed. I want to say to Mrs Gouws that I am a member of the Planning Committee. If the Planning Committee at any stage has given directions of substance to any body that is wrong then it should be abolished for it, it is not it's function. It is a facilitating function, it is not an executive function so that to that extent it is a definition of us having gone beyond the mandate, I believe that we deserve to be abolished. As an individual on that committee I must tell you it's often very difficult to draw the thin line between helping as a facilitator and being seen as to being directing things, but I accept and I think all the members of the Planning Committee to this body is the only body that can give instructions directions and make decisions. So I have no problems about that as far as the todays agenda and the motion from the IFP and from Kwazulu which has now been withdrawn, there was a resolution unanimously passed on the first of this month, saying that the Negotiation Council should proceed to negotiate and endeavour to agree on the constitutional principles recommended by the Technical Committee as set out in paragraph 2 of its third report etc., etc., and the Planning Committee under by the agenda 5.2.1.1 put exactly that general constitutional principles and the see page 14 the pack containing the committee reports of the 11 June in fact the Planning Committee carried out the mandate of this council to put those two items on the agenda. Now what happened was the IFP and Kwazulu came with resolutions which had not been referred to the Planning Committee and of which we were not aware. When they were put it wasn't the Planning Committee that dissolve went on his own this Council decided to adjourn and refer something to the Planning



Committee. If the Council does not want to do that it shouldn't do it. I find it very difficult when the Council adjourns refer something to a Planning Committee to be told that the Planning Committee is taking over. I accept its the function of this Council to decide what matter should be referred and what should not be referred and I accept and agree with that. But to come to the resolution I have a problem and a lot of begrip as they say for a number of people and I call in the federal regional camp. I understand the problems, but I have a great problem in the first paragraph one of the IFP resolutions. And that is it is a negation of the instruction given on the 1st of June. This Council it says shall not proceed to negotiate or endeavour to agree on the constitutional principles and my practical problem is this, since we had the first forum meeting, my friend Ben Ngubane will be aware of this there was we were told that you cannot proceed with other matters until you have first addressed the issue of the form of states/constitutional principles. That has been there right upfront time and time again time and time again and when on the agenda today for the first time, there is an opportunity of addressing that very issue. A resolution is comforted, don't do this until you have further recommendations on elements of transitional government, as I have a practical problem are we going to go through our agenda in a systematic way and I believe some of the tensions have occurred because we have not been systematic. We have got in the back of our mind transitional reports before we have dealt with the call reports about the form of state and the constitutional principles. So I would argue not to agree to Clause 1 because I think we should be dealing with the guts of our problem and i.e. the issue what is the form of state, what are the fundamental principles on which we want our constitution to be designed. And I would plead therefore that we do proceed with it. The second problem that I have is that although it says you mustn't proceed to deal with form of states/principles. It then says the Negotiating Council must draw up a fully fledged federal constitution. I don't see how they can do that until you have decided that you want a fully fledged confederal constitution. And secondly, it says 3.1. it must draw up the powers, functions and structures of the SPR's I thought that that was contained in paragraph 3 of their third report, but if it is not, I don't see how you can say you must draw up those if you are not going to consider the principles. So my practical problem is, I have got sympathy for the call it the federalist the regionalists, you want to address the issue of the form of state/principles and I say not to discuss that issue is to run away from the cardinal issue before this Council. I would really urge that we give priority to coming to terms with those fundamental principles the form of states and having done so we can ask the constitutional Technical Committee to carry on fleshing out details of a transition process, which is also important but it cannot be that transition process cannot hold up a discussion on the constitutional principles and the form of state.

MR CHAIRMAN:

Briefly, Mr Eglin do I understand you well to say it would be wise that we discuss the constitutional principles of the region state province before we can deal with the other issues. Do I summarise you well?

MR EGLIN:



Contained in list in the decision of the 1st of June and is contained in Mr Meyer's proposal. But I am not allowed to address his proposal at this stage, so I have given the reasons why we should not discuss it.

MR CHAIRMAN:

Ok, thank you. My next speaker will be Mr De Villiers.

MR DE VILLIERS:

Mr Chairman, I will be brief because I concur with what Mr Eglin has already said. I think it was obvious when we met here various parties 18 in the first round and eventually 26 that we depart from divergent point of views and that negotiations true negotiations would be our success in bringing the parties together. Therefore, it crystallised that we eventually have two main groups adhering to a one phase process. The one group who wanted this forum to negotiate the final constitution and the other a number of parties supporting an immediate election for a constituent assembly. It was obvious that we had to find a bridge between these two points of view and a suggestion put forward was to try and explore a two phase approach. Mr Chairman I believe that as Mr Eglin indicated our decisions even of the 7th May, 1st and 3rd July indicated a menu a process in which we could explore the two phased approach not binding ourselves not accepting it, but trying to accommodate both approaches within one unified approach and that is what we have been doing I disagree with Mrs Gouws I think we have tried desperately to get that discussion going and that's why we said we must talk about principles because principles are really the building blocks of any form of state. Because if we talk about federalism, and support strong regional governments on federal principles, but if you talk about federalism, do you talk about Canadian Federalism, Australian Federalism, what kind of federalism do you want to transplant to South Africa. We must talk about the contents of that building, the structure of it not the outside not the paint and the plaster, but the construction of the building and the building blocks are really the principles the constitutional principles so to start discussing constitutional principles will immediately take us to the form of state we can then consider as we have decided the process as Mr Matthews is actually asking we can discuss the process where the process will take us. We can discuss in great detail the structures, and we have already in our resolution of the 1st June agreed on such a menu. It doesn't mean, you have to buy the whole meal until we have explored and tasted every item on the agenda. We will as Mr Meyer's resolution or proposed resolution also suggests at the end of the day look at the whole package and see whether it is compatible with your own or parties own point of view. So therefore, Mr Chairman, really we have been trying to get this discussion going but time and again and we are all guilty, we have taken issues to the fore which really impeded on the debate which derailed the debate. The sooner we get the discussion on principles going the form of state and the issues that parties would like to put upfront and I therefore believe that I am not allowed to speak on it now that but Mr Meyer's suggestion or proposal really accommodate to a large extent also Mr Matthews items that he would further like to raise and in asking us to put on our programme and on our agenda. If we could do that we do not want to give preference to one item only and ignore the others and we



should do it in a constructive manner in a constructive order so as to be able to consider the whole package once we have once we have done that. And I do not do not share the view that the Planning uuh the Technical Committee is trying to push us one way or another careful reading of that documentation in the case that they are really just putting in front of this Council all the various options that the Council itself could amend could change could add the constitutional principles again offers a very good example Mr Chairman. Any delegate any party can suggest further amendments to those principles could add could subtract could change and could consider whether those principles really provide the structure for the form of state that that that such a delegation would like to promote. So therefore Mr Chairman I will strongly once we get to that items propose uuh support Mr Meyer's proposal because I believe the sooner this debate can get going, the sooner we can get to the substantive issues and get agreement on those issues the sooner we will bring again certainty back to our country's stability and we will direct the whole course of events in a constructive manner. Thank you.

MR CHAIRMAN:

Thank you Mr De Villiers. Ladies and gentlemen you will be aware that we have a serious time constraint here so we shouldn't try to be very long as I have a few speakers who would like to say something as far as this resolution is concerned. Could we be brief to the point indicate to which way we re moving uuh I have Mr Nugb Dr Ngubane followed by Mr Langlèy, Mr Rajah

MR NGUBANE:

Mr Chairman, you know I am not we re not in any way trying to criticise the Technical Committee, they have done a sterling job. What we are saying is right through the reports, for instance page 5 in the forth report 4.3. who they are talking about the allocation of powers to the SPR during the transition. Such powers are still in general terms and are made subject to the supervision of the constitution making body. Come again paragraph 4.4., this would enable the foundations for SPR governments to be established and the necessary rationalisation to be undertaken we are finalising the precise boundaries of the SPR's and the precise areas of competence of the different levels of government. Those tasks will be left with the constitution making body to accomplish within the framework of the constitutional principles of the detailed ..... dealing with the allocation of powers to different levels of government. The bottom line, Mr Chairman, to what you are saying is we are not prepared to land up in a unitary state situation decided by a majority party in any parliament. We want to be sure that we are moving into a situation that allows all of us to participate in the running of this country that conserves and preserves human freedom, human dignity and the rights of everyone. This is why we are saying the Technical Committee should be instructed to provide us with models depicting principles that feed a neater situation as well as principles that feed a federal form of government. And they could of course cover the ground inbetween by showing combinations that can still guarantee territorial participation, participation by communities by the central decision making process without necessarily each being a federation, but we are insistent that we cannot just merrily go along along the route



that obviously is ultimately going to be beyond our control and is ultimately going to take us into an elite state. We have had enough of that suffering we are not prepared to suffer that way again. Thank you.

MR CHAIRMAN:

Thank you Dr Ngubane. Mr Langley? If we can be brief please?

MR LANGLEY:

Thank you Mr Chairman. Mr Chairman, I think there is one thing we must say to each other. I have been listening and there are forever suggestions of delaying of blackmailing of upsetting the agenda and so and so and I think we must say to each other straightforward looking each other in the face. We are all grown ups here, we are all people who have experience in life, in our professions, in parliament and places like that Mr Chairman. I think we've now reached the stage Mr Chairman where if if you one group has the right to everything and the others are just there to be rubber stamps and to be steamrollers. If we got to go that way then that is the case otherwise Mr Chairman then must know where we stand with each other. I can tell you this that nothing I've done Mr Chairman was done to delay or to upset or disrupt. But, Mr Chairman, what have we experienced in this place. Since I've been here I've had three experiences of the exgender being absolutely shockingly overthrown to accommodate the particular person or parties resolution at the last throws of the days work. In the last throws of the days work, firstly to accommodate a declaration of intent, secondly Mr Chairman to accommodate gentlemen who are going overseas and to receptions and things like that. Mr Chairman, and and we I am not a child and I didn't come here to be anybody's fool

MR CHAIRMAN:

Mr Langley, Mr Langley, Mr Langley can you address yourself yourself to the resolution.

MR LANGLEY:

Alright. I will address the panel. Mr Chairman, I can now tell you why I'm supporting this motion. I'm supporting this motion Mr Chairman firstly, because it brings back the possibility of a single phase constitutional process which will now have to be attended to and reported back on by the Technical Committee on constitutional issues. Mr Chairman, I have tried on the 3rd August to get an amendment onto the table to have that aspect dealt with as another form of transition. But it was denied me, so I am supporting this one because this one is bringing back. Secondly, Mr Chairman, we as Conservative Party are also a second, because apart of the fact that the Conservative Party's proposals provides for a confederal dispensation for some of it it also provides for a federal constitution for others. In this regard Mr Chairman I want to quote very briefly from the submission we've made to the Technical Committee and I read on page 13 of our proposals paragraph 8.2.2. The realisation of the right of self-determination of the Afrikaner people in their own



independent state. 8.2.3. The recognition of other peoples right of self-determination if they so wish 8.2.4. The recognition of a federal state with own powers, functions and structures of the states, provinces or regions SPR. Alongside the territory or territories indicated in paragraphs 8.2.2. and 8.2.3. above. Mr Chairman, that's why I am supporting this resolution of the IFP for no other reason. The Technical Committee Mr Chairman will note on studying our proposals that we advocate a non-prescriptive open ended approach as far as these constitutional issues are concerned. Mr Chairman so as far as I am concerned, I gladly support them I reject suggestions that we filly battering or anything of that nature Mr Chairman and I am as much as any other member of this Council desirous that we get on ....  
(END OF TAPE 2 OF 3)

MR RAJHBANJI:

I believe that we are concentrating too much on the label rather than the mixture that should go in the medicine bottle. Sometimes or the other, the form of state whether we gonna have a unitary or federal or a happy medium between the both has to be decided and we believe that the role of regional representation is going to play a very very significant role in a future parliament and this cannot be resolved until such time we resolve the issue of a form of state. Why do we not Mr Chairman today amend the draft resolution of the Planning Committee to ask the Technical Committee to give us two very clear models to consider. One is the federal model and the other is the unitary model I say this because listening listening to the Technical Committee, I gained the impression that whatever we are going to decide piece meal is actually a movement towards a unitary state.

CHAIRMAN:

Thank you Mr Rahbanji. Chief Nonkonyana.

CHIEF NONKONYANA:

Thank you Mr Chairman. Mr Chairman we rise as traditional leaders at this point in time, to make an appeal to the mover and the seconder of the motion we are discussing. To reconsider its view to press that this matte should be dealt with in the manner in which they are proposing. Mr Chairman we are saying so because we regard the Kwazulu delegation because it is also representing the constitutional monarch of that part of the world a monarch who is actually the king of all the people there. And I know Mr Chairman they know that our people are actually divided at this point in reality our people there is strong feeling about a unitary state there is also equally strong feeling amongst our people about the federal state. Then Mr Chairman, for us therefore as leaders of the people to and our people Mr Chairman they are going to say we are actually imposing our will to them. That is counted to their proposal which I accept the bottom up approach if we accept their proposal that we need here and now to agree on a form of state which is federal, we are saying we are denying our people the right to choose which is part of their motive between these two models. I am therefore Mr



Chairman of the view in short that in view of the fact that we have already agreed to deal with this issue in a holistic manner, I have listened to the input from the Technical Committee I have listened to to to them also and every party here. What we have discussed Mr Chairman is what has been dealt with in the Technical Reports in other words we could deal with this matter as we deal with the reports of the Technical Committee. In other words in our view it is int a special matter to be given or according special status as it were. It is a matter that we should actually deal with as we go along, I'm therefore of the view rather we are of the view Mr Chairman to request the movers to allow us to deal with these matters and as we deal with these matters reconsider their views also, because they are actually inter-linked as we are discussing the federal we are forced to discuss other matters so it is a special plea to them Mr Chairman. Thank you very much.

MR CHAIRMAN:

Thank you Ladies and Gentlemen. You will agree with me that we are now repeating all of us as we are discussing and uuh I am appealing to the speakers that if your point has been made, you don't have just to raise your hand for the sake of raising your hand up uuh your point shall have been made and we shouldn't come out with a new point so that we can be in a position to sort of drive this matter to a close. I still have speakers. I am just warning you that I have the right if I had to if I have you tediously repeating as it is happening now that I have got to take a decision to drive this matter to the close. I have the next speaker. Pardon, I've got your name, i've got your name.

SPEAKER:

Yes, on the point of order, there was a decision that we should expressly state our views because otherwise it won't be taken up in the minutes. Even if I agree with whoever said what, I should state my case otherwise it's not taken up and next time you'll say I abstained or I reserved or I didn't vote or I didn't do this or that and I am sick and tired of it.

MR CHAIRMAN:

Ok, noted. Mr Cronje?

MR CRONJE:

Mr Chairman, I think this resolution serves one purpose. It brings to the fore what was actually discussed at the Planning Committee and it brings to the fore a difficulty which permeates all the reports of this particular Technical Committee that is to address two fundamental issues on which mainly differences exist. That is first of all the issue of whether it should be a one phase or a two phase process Secondly, it deals with the issue of the degree the issue of boundaries and more particularly the degree of the powers, functions and duties of regions, states and provinces their relationship with the central government etc., It also emphasises the second aspect,



an aspect which is very important when we relate it to item 3.2 of the declaration of intent on the election date and that is the time frames for the implementation of the decisions stated here. It brings that to the fore it brings to the fore another aspect, through no fault of their own all the recommendations of the Technical Committee has been based on a two phase process right throughout transitional so and so and therefore we can't do this because it is so. Now, Dr Venter has referred quite rightly to resolution adopted on the 1st June, that if you will allow me Mr Chairman, I will just read from the minutes dealing with that resolution and it says it was noted that the resolution on constitutional issues of the 1st June was a procedural resolution to serve as a working basis and the starting point for discussion and that it was not the intention of the resolution to make a substantive decision in the negotiating council as these issues are still to be debated and discussed and therefore is this resolution serves that we ask that the Technical Committee who has thus far carried out what they have been asked I have no criticism but in terms of the election date in terms of time frames, in terms of comparing things, I would ask that we also instruct the Technical Committee to look at these issues not only from a two phase process but also from a one phase process since we ourselves very clearly say that we have made no decision on that particular aspect because in terms of implementation Mr Chairman it will have quite considerable impact. I would like to say to you Mr Chairman, that in respect of the powers of states, provinces and regions in the transitional process could be significantly different that it may be if it is a one phase process. I've indicated that it impacts on the declaration of intent particularly clauses 3.1 and 3.2. But lastly, Mr Chairman, I think it will ease the task of the Technical Committee who repeatedly refers and have tried as they have explained gently to overcome the difference between the two phase and the one phase and I don't think that we should leave it to a Technical Committee to have to contrive a way in which in a sensitive matter they should try to put forward specific fundamental principles to us so all I am asking is that they should not only deal with it from a two phase approach but also from a one phase approach so that we have a comparison since this Council has not yet made the fundamental decision on which one of the two to adopt and I am ending off by saying Mr Chairman by some way or the other through bi-laterals, through informal discussions I think we need to address these two fundamental issues because that will ease not only the negotiating process in this council but I think it will significantly ease the responsibility of the Technical Committees.

MR CHAIRMAN:

Thank you Mr Cronje.

MR DE JAGER:

Mr Chairman, the reports of the Technical Committee started to emphasise that everything decided here is only temporary only in transition and a stress so called resolution of the 1st June to say the least, it was clear from the beginning that the validity of this resolution was disputed. I'm not any longer amazed by the efforts made to revise this dead resolution and to give it more power than it has. The Technical Committee is acting on this so called resolution and bases their recalls on it. Where was the one phase approach dealt with? Please show me in any of these



reports where they dealt with the powers the regions etc from a point of view of a one phase approach. All these reports are based on a two phase approach as if this is the whole..... Mrs Gouws complained because the moment we differ we adjourn so that a Planning Committee could meet the Planning Committee gatherings took up at least twice the time used by this Council. I accept their word that they do not debate issues but I really am amazed and want to ask what have they been doing all the time if they didn't discuss these issues because then I must draw the ..... This Council is avoiding a decision on the form of state, how long will we carry on evading our responsibility to solve this issue. We were instructed by the Negotiating Forum to place it first on our agenda, we have been evading that responsibility and we could carry on evading it the time will come we will have to decide on that and the sooner the better then progress will be made.

MR CHAIRMAN:

Ok, Mr De Jager. Mr M J Mahlangu?

MR MAHLANGU:

Thank you Mr Chairman. Mr Chairman we are not satisfied with the resolution brought forward by the IFP not that we reject everything in the document, but we believe perhaps because of emotions or desire to have a certain thing coming quickly then one overlooks the other steps to follow. For instance, whether you have a constitution making process in the multi-party conference or constitutional assembly, you need principles. You cannot do it if you don't have principles you can't move in a inch so first thing you must have your principles set down you agree on them then you can say the multi-party conference can decide on terms of this or the constitutional assembly can decide on this. So by saying that no constitutional principles we have a problem where to start then even if you say okay the multi-party conference is the body to make the constitution. Now how do you start, cause now the principles are not not here so you must start with the principles then you can give the principles to the body whether constituent assembly or the multi-party conference has the party or say so on that score we believe the constitutional principles should first be identified before you can talk of a body which must start tomorrow with constitutional making whether it be a constituent a elected constituent assembly or the multi-party forum. And another problem, we 3.1. of the resolution is restrictive we have not yet agreed that the residual powers should go to the province or national government now here it has already been said that the powers functions instructions of the SPR's in the constituent of South Africa with a view to leaving residual powers to SPR's we have not agreed on that. Now in other words this pinpoint us to a point we don't have principles. How can we agree that residual powers are going to stand trial or regionally if we have not yet come up with the principles so I say general principles are the most important tools which will tell you where to go and even the question of the form of state Mr Chairman, we believe it's only looking at the content of as to how the state operates then you can say its federal states or confederation or a unitary state, but jut to say from the blue I want a federal state we don't know what you mean by it, whether you mean it must be inbetween some of the federal states we know or yu mean it must completely like another country is a difficult thing, but



the moment you have your general principles for the powers for the regions, central government then you will be able to say this is the one I want so I think following the right track, by having general principles there then which will capitulate into a form of state. What kind of a state do we want in South Africa from the principles but if it is just taken from the blue I think we have a problem that's the only problem we have with this resolution and we would appeal to our friends the IFP to first allow the general principle to come so that you can see what form of state from this principles we have. What type of bridges will you have from this general principle you have agreed and in that line would request the reconsideration of the proposal of the IFP we all agree that you must have some kind of process constitutional making process but then you must have general principles on which all these people will work. Whatever you choose the starting point is general principles. Thank you.

MR CHAIRMAN:

Thank you Mr Mahlangu. Mrs Gouws.

MRS GOUWS:

Mr Chairman, being married longer than you are old, I have learned that my husband always what I say three days afterwards say he said it. Two weeks ago I proposed exactly what the men all the men before me have now spoken on. I asked can't we please request the Technical Committee to take those general principles which we have more or less agreed on it's just the final wording that we must have finalised today sometime can't they please take that principles and apply to it to the two alternatives uum at that stage I was ignored as my husband usually does, but today you are taking up what I that day suggested. Thank you for that I think that is what we must do. Mr Mchlungu is quite right they can apply the principles to the alternatives and we can decide then we can discuss it and decide then.

MR CHAIRMAN:

Thank you Mrs Gouws. Mrs Chabalala.

MRS CHABALALA:

In fact I will be repeating some of the things that were repeated because I wanted to support

MR CHAIRMAN:

Speak into the mike

MRS CHABALALA:

next to me can't hear me. Then Mr Chairman, I also think that if we really took the procedures this morning the IFP as well as the Kwazulu Government if ever were moving on the principles dealing with point by point like we did with the general



principles they could have a good chance of having fitted their ideas on every point that is mentioned here by the Technical Committee but to me Mr Chairman it seems indeed we have put a card in front of the donkey hands we cannot move forward we are rocking this side and this side because if we followed the procedure that we used on the 3rd dealing with point by point they could bring in their resolutions and then we adopt if ever we wanted to adopt, because if I look at the very resolution from the Kwazulu Government because we are combining both they refer to one party state only not to all the 26 here out of 26 to 1 because if you read from the Kwazulu Government item 2 it says that the constitution of the state of Kwazulu, Natal which forms part of the documentation you see that sentence the state of Kwazulu, Natal what about the others, so they would have had chance of saying we at Kwazulu, Natal we think this is proper so can't we fit it so that it is taken by all the parties. Thank you.

MR CHAIRMAN:

Thank you Mrs Chabalala. Reverend Mohapi?

REV MOHAPI:

Thank you Mr Chairman, uuh we, from the Dikwankwetla Party of South Africa we really want to say as far as this resolution is concerned from the IFP, uuh would like to support them but, on this point np. 1 item 1 that we should stop negotiating the uuh the uuh constitutional principles recommended by the Technical Committee, it's a problem to us. We cannot at this present moment stop negotiating anything as the previous speakers have already said that it is necessary for us to see what the principles are for the form of state that you want, but for the rest of the submission of the restoration we do support it. Thank you, Mr Chairman.

MR CHAIRMAN:

Thank you Reverend Mohapi, Mrs Jajula.

MRS JAJULA:

Mr Chairperson, I'm waiting for attention.

MR CHAIRMAN:

Ok Mrs Jajula you have my attention.

MRS JAJULA:

Thank you Mr Chairperson. Chairperson I think you have listened to the parties as well as the wonderful work and presentation by the Technical Committee which I think we should have considered there are reports where we started and the resolution that has taken us the whole day to look into and almost the whole day spent now we are going to for 5.0. clock I would move that Mr Chairperson with all the parties that



have delivered their messages as far as this resolution including my party I would say to review the progress and come up with a round approach set the direction for the Council. I think we have spent more than 2 hours talking about the resolution which have been which should have been part and parcel of our agenda for today. The Technical Committee is sitting here to set us the guidelines with a clear issues to be discussed, but we go around the resolution which has been part of parcel. I therefore move that Mr Chairperson you come up with a direction a review the progress. I thank you.

MR CHAIRMAN:

Thank you Mrs Jajula, then I 've got Prof. Rapinga and then Mr Gordon. Professor Rapinga?

MR SLOVO:

Mr Chairperson I understand

MR CHAIRMAN:

Prof. Rapinga?

MR SLOVO:

point of order. I understood you to say about 15 minutes ago, that you have a list of several speakers and that that would be all. If this discussion is going to go on until the end of the evening then we are not complying with the decision we took earlier that there will be an adjournment for tea and that soon after that adjournment we will come to the item and the anathema to a few of the parties election date and I move that we proceed with expedition towards that.

MR CHAIRMAN:

Thank you Mr Slovo, I have only two speakers here, can I please just listen at them and then we will wind off the matter. Prof. Rapinga and then Mr Gordon.

PROF. RAPINGA:

Mr Chairperson I 'm waiving my right to speak.

MR CHAIRMAN:

Thank you Prof. Mr Gordon.

MR GORDON:

Thank you for the promotion Mr Chairperson.



MR CHAIRMAN:

Pardon.

MR GORDON:

Thank you for the promotion. Mr Chairperson I speak on a procedural matter, the last two speakers have urged the meeting to now begin to move towards a decision and can I help with that, by saying that Mr Chairperson you should now we have had sufficient discussion, we've had all points of view expressed not necessarily everyone has spoken, you need now to get an indication from the house as to whether there is sufficient consensus. Firstly, in respect of this resolution and secondly in respect of the second resolution. I believe that the issues we are discussing are common to both, we don't necessarily have to open up the second one for debate save to put it to the house to access whether there is sufficient consensus on either of them. So then can I urge you Mr Chairperson even if it means that you ask for an indication by raising of hands not for the purposes of counting votes, but for the purposes of guiding you as to whether there is sufficient consensus or not. So I suggest that.

MR CHAIRMAN:

Thank you Mr Gordon. You will realise that I have said it earlier that I think we have debated this matter, but I consider to give some few speakers to talk on this issue as it would be proper and fair to give them enough time to deliberate on the matter. But I think we have now done so, we have deliberated on this matter and uuh and I am going to put a question to the house. Do we then except the resolution in front of us, can I get whether this consensus.

VOICES:

Yes, yes, yes

MR CHAIRMAN:

Thank sorry, ok listen at the Chair. We are talking about the resolution by from IFP. Is it accepted?

VOICES:

Yes, yes, yes, no.

MR SLOVO:

Mr Chairperson, on the point of procedure I suggest that you listen to the proposal made by Mr Gordon that the leader of each delegation instead of making noise yes, no or whatever raises a hand, alternatively if that is not something which is acceptable here, you ask the leader of each delegation to say yes or no in turn and that will take three minutes.

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MR CHAIRMAN:

Ok, thank you very much. Can I again put the question. Do we accept the resolution. Ok I cannot hear you all then I resort to what Gordon has proposed. Can we then indicate by hand, those who are in agreement or not.

SPEAKER:

Point of order Mr Chairman

MR CHAIRMAN:

Yes sir

SPEAKER:

If we come to the question of raising hands, and counting the hands, we are in effect introducing now a new principle on decision making the one of a majority vote. I think Mr Chairman what we expect you to do as a Chairman on this matter, is to get a sense, you have listened to the debate very carefully, you know more or less whether there is consensus or not. You express your view and it's up to us in terms of the standing rules to say whether to challenge you and if I don't agree with you I will challenge, if I agree with you I'll say well I think that from a sense situation it's fine so we must make a ruling and then we can challenge him and see whether whether we agree or not.

MR CHAIRMAN:

Ok. I'm going to put another second proposal from Joe Slovo if you disagree with that. I'm going to ask the leaders of the delegation to indicate to me yes or no on that issue. Agreed? Fine.

MR MEYER:

Mr Chairman, a point of order.

MR CHAIRMAN:

Yes Mr Meyer?

MR MEYER:

May I ask Mr Matthews Mr Chairman whether he would be at all prepared to consider that this matter on his resolution be adjourned and that it stands over for further consideration on Thursday. I ask the question to Mr Matthews Mr Chairman.

MR CHAIRMAN:

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Well, the question put. We don't have to debate on this. Come on let's listen on another. Mr Matthews, question put. Let's not debate over the issue.

MR MATTHEWS:

Mr Chairman I think that we've seen that the issue should be dealt with now.

MR CHAIRMAN:

Ok, thank you

MR MATTHEWS:

I mean if we need to negotiate we can do that afterwards but I think we do need to get a sense of what the house feels on the matter.

MR CHAIRMAN:

Thank you Mr Matthews

MR MATTHEWS:

There is nothing apocalyptic about it Mr Chairman.

MR CHAIRMAN;

Ok

MR MATTHEWS:

We can always reverse ourselves

MR CHAIRMAN:

Then we re dealing with a matter right now and I am ruling that each leader of the delegation should indicate to the Chair whether his fore against this resolution and I think this will take us about 5 minutes. That's all and then we close the matter. ANC?

MR RAMAPHOSA:

Mr Chairman, we have to say that we are against this resolution as presently drafted and I should say earlier I had to sort to find out from Mr Matthews whether this resolution stands as is and he had said they are open to having this resolution amended, but since you are proceeding in the way that you are proceeding I have to say that we are against the resolution.

MR CHAIRMAN:

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Thank you, AVU? AVU?

AVU:

Alphabetically sorry. I'm in favour of the resolution.

MR CHAIRMAN:

Thank you uum Bop

BOP:

Yes

MAR CHAIRMAN:

The Cape Trad. Leaders?

CAPE TRAD. LEADERS:

We are against the resolution.

MR CHAIRMAN:

The Ciskei Government?

CISKEI GOVERNMENT:

In favour, support.

MR CHAIRMAN:

The Democratic Party?

DP:

Yes

MR CHAIRMAN:

Dikwankwetla?

DIKWANKWETLA:

(unable to hear on tape)

MR CHAIRMAN:

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Inkata? Intanda Isiswe?

INKATA:

Unfortunately against.

MR CHAIRMAN:

Conservative Party?

CONSERVATIVE PARTY:

We support.

MR CHAIRMAN:

Injansa?

INM:

We reject.

MR CHAIRMAN:

Kwazulu?

KWAZULU:

(unable to hear on tape)

MR CHAIRMAN:

Labour Party?

LABOUR PARTY:

Against

MR CHAIRMAN:

Natal Transvaal?

MATAL TRANSVAAL:

Against.

MR CHAIRMAN:

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National Party?

NP:

We are against

MR CHAIRMAN:

National Peoples Party?

NPP:

We are partly in support, we are against one in three

MR CHAIRMAN:

Ok, are you Raj are you neutral or are you reserving your right?

NPP:

Mr Chairman we are supporting most of the proposal but we are definitely against one in three that is our position.

MR CHAIRMAN:

You support?

NPP:

No Mr Chairman we cannot support one in three two partly support

MR CHAIRMAN:

Alright you you neutral. And then uuh OFS Trad. Leaders?

OFS TRAD. LEADERS:

(unable to hear response on tape)

MR CHAIRMAN:

PAC?

PAC:

We reserve our rights Mr Chairman.

MR CHAIRMAN:

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Reserve. Solidarity?

SOLIDARITY:

Against to have it's ..... Mr Chairman.

MR CHAIRMAN:

SACP?

SACP:

Against.

MR CHAIRMAN:

SA Government?

SA GOVERNMENT:

Not in favour as it stands Mr Chairman

MR CHAIRMAN:

Pardon

SA GOVERNMENT:

Not in favour as it stands.

MR CHAIRMAN:

Ok. UUh Transkei Government?

TRANSKEI GOVERNMENT:

Reject it.

MR CHAIRMAN:

TVL. Trad Leaders?

TVL TRAD. LEADERS:

We are totally against

MR CHAIRMAN:

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Well, UPF?

UPF:

Against

MR CHAIRMAN:

Venda Government?

VENDA:

Against

MR CHAIRMAN:

XXP?

XXP:

We support with certain amendments.

MR CHAIRMAN:

What do you support?

XPP:

We support the resolution on condition it is amended certain clauses are amended.

MR CHAIRMAN:

So you are neutral. Ok. Right, I have 8 people who supports the resolution and I have got 15 people against the resolution, so we rule with sufficient consensus that the resolution is not supported. Thank you.

SPEAKER:

Mr Chairman, are we working on a majority principle 15, 8 head counting? If so, could you indicate the difference between that and putting up hands and counting them?

MR CHAIRMAN:

The matter is closed, you have given me the power that I should follow the procedure. I follow the procedure and the issue is 8 for the resolution and 15 against the resolution.

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SPEAKER:

Mr Chairman, just a question...

MR CHAIRMAN:

So the matter is closed.

SPEAKER:

what length? sufficient consensus mean Mr Chairman? What does sufficient consensus mean, what do you interpret it to mean?

MR CHAIRMAN:

Well, I've got more people not supporting the resolution and very less people against the resolution.

SPEAKER:

Chairman, we should not let the resolution be carried.

SPEAKER:

Point of procedure.

MR CHAIRMAN:

OK, alright.

MR RAMAPHOSA:

Thank you Mr Chairman. Mr Chairman, I did anticipate you would be questioned on what basis you had arrived on sufficient consensus. I think it would be instructive to look at the rules. The rules say that sufficient consensus means that there is enough agreement from enough participating parties to enable the process to move forward. Sir, what we need to do now is to move forward with our agenda. This motion had been introduced and may I use a strong word to divert us from the agenda and the decision that has now been taken enables us to move on with the agenda which we had approved earlier in the morning and there is therefore sufficient consensus



Yes.

SPEAKER:

(unable to hear comments on tape)

MR CHAIRMAN:

Ok, than you Mr Ramaphosa?

MR RAMAPHOSA:

Mr Chairman, I would like to disabuse anyone of the notion that we are working on the basis on majority decision in this Council, we have clearly stated decision making procedures and we have debated this matter extensively and this matter sir, was also subjected to a mechanism which is covered in the procedures. We did adjourn to the Planning Committee, the Planning Committee addressed itself to this matter and was not able to resolve it. Now having utilised that mechanism and all others, carcasses were held during the course of the day and we were not able to reserve the problem and therefore in the end as Chairperson you are compelled to rule in you discretion that there is sufficient consensus. Not because you were counting heads because you wanted each party leader to state exactly where they stand. And that was not saying you count 15 or 20 or whatever. There is sufficient sufficient consensus for us to move on with the agenda sir.

MR CHAIRMAN:

Thank you, ladies and gentlemen.

VOICES:

Various voices

MR CHAIRMAN:

Ladies and gentlemen the matter is closed. Can we carry on with the agenda?

MR MATTHEWS:

Mr Chairman, we want to record an objection to your ruling in terms of the rules and we request an adjournment to deal with that and we also request that if any facilitating efforts fail that the matter be submitted to a Technical Committee to produce a report. That is within our right sir and that is what I am insisting on and that I am entitled and can that please be recorded.

MR CHAIRMAN:

Mr Matthews, you request you are saying you reject you are rejecting the decision

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of the Chair and you

MR MATTHEWS:

Object a ruling by the Chair on the question whether or not sufficient consensus

MR CHAIRMAN:

And you asked that to be noted

MR MATTHEWS:

and I am doing so exercising my rights.

SPEAKER:

Point of order.

MR CHAIRMAN:

And you ask that to be noted? So that will be noted. Mr Meyer?

MR MEYER:

Mr Chairman, on the point of order. With the correct ruling actually not there for you with all respect to state that there is not sufficient consensus to carry the resolution and that would be the correct ruling I would submit.

MR CHAIRMAN:

Mr Gordon?