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COMMISSION ON REGIONS

REF: 1/11/ **4.** / **7.**

**ADOPTED RESOLUTIONS OF THE MULTI-
PARTY NEGOTIATION PROCESS**

**RESOLUTIONS OF THE PLANNING CONFERENCE
OF 5 & 6 MARCH 1993**

RESOLUTION ONE

**DECISION OF FACILITATING COMMITTEE ON THE PROCESS
OF DECISION-MAKING IN THIS PLANNING CONFERENCE AND THE
FACILITATING COMMITTEE**

1. All decisions are to be taken by general consensus.
2. If this cannot be achieved, conference will use the method of sufficient consensus.
3. This means that :
 - * there is a lack of general consensus;
 - * there is enough agreement from enough participants to enable the process to move forward;
 - * parties who disagree can record their objections or rejections formally, but will, in the spirit of co-operation, not hinder the process from going forward.
4. The ruling that there is consensus/sufficient consensus or not, should be taken by the chair in his/her discretion. This can, however, be challenged by any party who disagrees. The meeting will then deal with it as is appropriate.

RESOLUTION TWO

RESOLUTION ON THE NEED FOR THE RESUMPTION/COMMENCEMENT OF MULTI-PARTY NEGOTIATIONS

We, the parties, organisations and administrations assembled in this the Multi-party Planning Conference:

AWARE of the responsibility we individually and collectively bear for the wellbeing of our country;

BELIEVING that the problems of our country should be resolved peacefully through a process of negotiation;

REALISING the urgent need for the economic development of the country;

AGREEING that the resources of the country need to be preserved, developed and improved for the benefit of all the people of this country and for future generations;

ACCEPTING that all the people of this country and the whole community of nations throughout the world look to us to move the country forward towards a non-racial, non-sexist and fully democratic future;

NOW RESOLVE TO:

1. Commit ourselves, individually and collectively, to the resumption/commencement of multi-party negotiations within the next month, in order to move as speedily as possible towards the attainment of our primary objective, which is the drafting and adoption of a new Constitution for South Africa;

AND FURTHER RESOLVES THAT:

2. The multi-party forum shall be reconvened as a matter of national urgency, not later than 5 April 1993;
3. Each participating organisation will send two delegates and two advisers.
4. The first meeting will determine, inter alia:
 - 4.1 mechanisms and procedures (including chairpersonship);
 - 4.2 how to accommodate the views of those participants who were not in CODESA in relation to the agreements reached in CODESA;
 - 4.3 how these agreements can serve as a constructive foundation for the resumed/commenced negotiations process to build on;
 - 4.4 how this forum shall be structured and named;
 - 4.5 the role of the international community.
5. The Facilitating Committee of this conference will have the responsibility of deciding upon and implementing the steps that are necessary to give effect to this resolution.
6. All participants are required to make an unqualified commitment to this process as a pre-requisite for their participation.

RESOLUTION THREE

RESOLUTION ON VIOLENCE

The Multi-Party Negotiations Planning Conference expresses its utmost indignation and condemnation for the despicable murder of 10 innocent people which took place on Table Mountain, Pietermaritzburg, on 5 March 1993. This unspeakable crime has taken place at a time when all the political parties, organisations and administrations of South Africa have finally joined together once again to express their commitment to address and solve South Africa's problems through negotiations. Irrespective of their political affiliation, the victims of this massacre have fallen prey to a climate of escalating violence which could jeopardise the success of negotiations. The Multi-Party Negotiations Planning Conference reiterates its unwavering rejection of all instances of political violence and actions leading to the promotion of violence. We offer our condolence to all those who have suffered deeply and commit ourselves to work relentlessly to end the violence, promote law and order and bring about a climate of peace, inter alia, through constitutional negotiations.

THE NEGOTIATING FORUM, MEETING ON 1 APRIL 1993

RESOLUTION ON VIOLENCE

We, the participants at the Negotiating Forum meeting at the World Trade Centre on 1 And 2 April 1993:

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|------------------|---|---|
| NOTING | * | With revulsion the unacceptable escalation of violence that is engulfing our country; |
| OUTRAGED | * | At the killings particularly of women and children; |
| CONCERNED | * | About the damage violence is inflicting on all aspects of the economy, on relations among people and organisations and the consequent deepening of divisions; |
| AWARE | * | That violence poses a threat to the negotiating process which if it continues could wreck the process and plunge our country into an era of unprecedented conflict. |

DO HEREBY UNEQUIVOCALLY

- | | | |
|-------------------------|---|--|
| CONDEMN | * | Without reservation the wanton killing and maiming of the citizens of our country; |
| EXPRESS | * | Our sympathy and condolences to all those who are suffering in consequence; |
| COMMIT OURSELVES | * | To effective joint action by all of us leading to the eradication of violence and to the attainment of peace in our country as soon as possible; |
| | * | To peaceful negotiations as the only way to resolve differences. |

AND THEREFORE RESOLVE TO

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

RESOLUTION ON THE TRANSITION PROCESS

1. We, the participants at the Negotiating Forum meeting at the World Trade Centre, Johannesburg on 1st and 2nd April 1993, having,
 - 1.1 Received a report from the Negotiating Council on the CODESA reports and the transition process;
 - 1.2 Identified some of the issues concerning constitutional matters which the Negotiating Council must consider.
2. Resolve to instruct the Negotiating Council to consider and report on all matters arising from the Consolidated Report, including the following and other Constitutional issues:
 - * Form of State and Constitutional Principles
 - * Constitution-Making Body/Constituent Assembly
 - * Transitional/Interim Constitution
 - * Transitional Regional/Local Government
 - * Fundamental Human Rights during the Transition
 - * Transitional Executive Council, its Sub-Councils, the Independent Elections Committee and the Independent Media Committee
 - * Future of the TBVC States
 - * Self-determination
3. The Negotiating Council shall present reports on progress made on the above issues to the Negotiating Forum.

RESOLUTION ON INTOLERANCE AND ASSASSINATIONS

This Negotiating Council, meeting at the World Trade Centre on 18 May 1993:

1. **Notes with outrage:**

- 1.1 The rising tide of political intolerance in South Africa;
- 1.2 The recent increase in actual and threatened political assassinations and violence; and is

2. **Profoundly disturbed:**

By the threats to the lives of certain political leaders, including the recently uncovered plan to assassinate the leader of a delegation in the Negotiating Council;

3. **Believing:**

That a political climate in which there is no violence, assassinations and intolerance is essential to the success of the negotiation process;

4. **Therefore resolves to:**

- 4.1 Express our sincere solidarity with and concern for the safety of all members of delegations;
- 4.2 Condemn the use of assassinations and other forms of political violence to resolve political differences;
- 4.3 Call on all to create the conditions which discourage violent attacks on political opponents and to ensure suitable legal action is taken against those contemplating assassination and similar violent acts.

DECLARATION OF INTENT ON THE NEGOTIATING PROCESS

This meeting of the Negotiating Council, held on 7 May 1993 at the World Trade Centre

1. Noting That There Is An Urgent Need To:

- 1.1 Inspire confidence in the negotiating process and our ability to resolve our problems peacefully;
- 1.2 Offer a clear vision of the major milestones in the negotiating and transition process;
- 1.3 Create conditions which eliminate violence in South Africa;

2. And recognising wide acceptance of the need for democratic elections in South Africa;

3. Therefore Commit Ourselves:

- 3.1 To reach agreements on binding constitutional principles, the constitutional framework and the constitution-making process in terms of which elections will be held;
- 3.2 To provide for an adequate time-frame for the implementation of decisions on these matters and procedures for elections; and
- 3.3 To ensure that the negotiating process moves forward sufficiently over the next four weeks at which stage to set the exact date for an election that should take place not later than the end of April 1994, subject to 3.1 and 3.2.

RESOLUTION ON THE DELIMITATION, POWERS AND FUNCTIONS OF REGIONS

Whereas there appears to be broad agreement that the most suitable form of government for the future will be one which involves an allocation of powers to central and regional governments, while the differences that exist relate essentially to the boundaries, powers and functions of the regions and the process whereby such differences may be resolved;

Realising that regional boundaries will be relevant to the electoral process, as well as to the structures of the Constitution;

Accepting that the powers and functions of the regions are crucial to issues such as the form of state and self-determination, and will be a fundamental part of the constitution;

Convinced that while the demarcation of boundaries is a task which appropriately should be performed by a broadly based body of suitably qualified people, who will hear representations from the public at large and from different areas of the country, issues regarding the functions and powers of regions can at this stage of the negotiations best be dealt with by a smaller technical committee; and

Determined to ensure that we achieve a peaceful and negotiated agreement on the democratic transformation of our country within the time frames we have set for ourselves.

Hereby resolve:

1. **That** the Technical Committee on Constitutional Issues be charged with formulating as a matter of urgent priority, recommendations on the structures, powers and functions of regions, on constitutional principles and on the constitution making process.
2. **That** a Commission be appointed to make recommendations to the Negotiating Council within six weeks of its appointment, on the delimitation of regions.
3. **That** for the purpose of its recommendation the Commission should be charged to take into consideration, inter alia, the following criteria:

- 3.1 Historical boundaries, including provincial, magisterial and district boundaries and infrastructures.
 - 3.2 Administrative considerations including the availability or non-availability of infrastructures and nodal points for services.
 - 3.3 The need or otherwise to rationalise existing structures (including the TBVC States, self-governing territories and regional government).
 - 3.4 The necessity of limiting financial and other costs as much as is reasonably possible.
 - 3.5 The need to minimise inconvenience to the people.
 - 3.6 The need to minimise the dislocation of services.
 - 3.7 Demographic considerations.
 - 3.8 Economic viability.
 - 3.9 Developmental potential.
 - 3.10 Cultural and language realities.
4. **That** the Commission should be required to allow interested parties and persons to submit their views and recommendations within a specified period which should not be less than one month after an invitation in this regard has been published; and that the Commission should take these into account for the purposes of formulating its recommendations.
 5. **That** the Commission should also be free to take cognisance of any other material it might wish to collect for the purposes of its recommendations.
 6. **That** the Commission should also for the purposes of its recommendations take cognisance of any progress made in the Negotiating Council by way of agreements on constitutional matters.
 7. **That** this Council shall from time to time review the progress made towards the reaching of agreements regarding the structures, functions and powers of regional governments under the Constitution replacing the present Constitution, and consider the advisability of a Commission also being required to submit recommendations on such matters.

8. **That** the Commission should be composed of ten members agreed upon in this Council; that the members should be persons of acknowledged personal integrity and suitably qualified specifically or in general for the task assigned to the Commission; that participants be called upon to submit names of candidates to the Administration before 12h00 Friday 21 May 1993 and that the Planning Committee make a recommendation in this regard to this Council.
9. **That** the Planning Committee, with the assistance of the Technical Committee on Constitutional Issues, prepare draft Terms of Reference for the Commission for consideration by this Council.

**RESOLUTION BY THE PLANNING COMMITTEE TO
THE NEGOTIATING COUNCIL MEETING OF 28 MAY 1993
ON THE COMMISSION ON REGIONS/STATES/PROVINCES**

WHEREAS there appears to be broad agreement that the most suitable form of government for the future will be one which involves an allocation of powers to national and regional governments, while the differences that exist relate essentially to the boundaries, powers and functions of the regions/states/provinces and the process whereby such differences may be resolved;

REALISING that regional boundaries will be relevant to the electoral process, as well as to the structures of the Constitution;

ACCEPTING that the powers and functions of regions/states/provinces are crucial to issues such as the form of state and self-determination, and will be a fundamental part of the constitution/s;

CONVINCED that while the demarcation of boundaries is a task which appropriately should be performed by a broadly based body of suitably qualified people, who will hear representations from the public at large and from different areas of the country, issues regarding the functions and powers of regions/states/provinces can at this stage of the negotiations best be dealt with by a smaller technical committee;

DETERMINED to ensure that we achieve a peaceful and negotiated agreement on the democratic transformation of our country within the time frames we have set for ourselves; and

HAVING charged a technical committee with formulating as a matter of priority, recommendations on the structures, powers and functions of regions/states/provinces, on constitutional principles and on the constitution making process;

WE, THE NEGOTIATING COUNCIL hereby appoint

Mr Bax Nomvete and Professor Flip Smit
as Co-Chairpersons, and

1. Basson Deon, Prof
2. Bernstein Ann, Ms
3. Daphne Paul, Mr
4. Du Plessis A, Mr
5. Govinden Betty, Ms
6. Gwagwa Lulu, Ms
7. Khumalo JAM, Mr Justice
8. Muthien Evonne, Dr
9. Ncamashe-Burns, Chief
10. Nkuhlu W, Professor
11. Rautenbach I, Professor
12. Reyneke Koos, Mr
13. Steyn Anna, Professor

as members of a Commission on Regions/States/Provinces to make recommendations to us, the Negotiating Council within six weeks, on the delimitation of regions/states/provinces.

FOR THE PURPOSES of its recommendations, the Commission shall:

1. Take into consideration, inter alia, the following:
 - 1.1 Historical boundaries, including provincial, magisterial and district boundaries and infrastructures;
 - 1.2 Administrative considerations including the availability or non-availability of infrastructures and nodal points for services;
 - 1.3 The need or otherwise to rationalise existing structures (including the TBVC States, self-governing territories and regional governments);
 - 1.4 The necessity of limiting financial and other costs as much as is reasonably possible;
 - 1.5 The need to minimise inconvenience to the people;
 - 1.6 The need to minimise the dislocation of services;
 - 1.7 Demographic considerations;
 - 1.8 Economic viability;
 - 1.9 Development potential;
 - 1.10 Cultural and language realities;

2. Allow interested parties and persons to submit their views and recommendations within a specified period, which should not be less than one month after an invitation in this regard has been published, and take these into account;
3. Be free to take cognisance of any other material it might wish to collect; and
4. Take cognisance of any progress made in the Negotiating Council by way of agreements on constitutional matters.

RESOLUTION

This Negotiating Council meeting on Tuesday 25 May 1993 at the World Trade Centre:

Notes with Concern and Condemns:

1. The insensitive manner in which the recent actions and arrests against the Leadership of the PAC were undertaken;

Is Appalled At:

1. The possible negative impact of these events on the Negotiation Process and unnecessary delay in the proceedings of the Negotiating Council;

Call on the South African Government To:

1. Immediately charge or release those that have been arrested;
2. Return all materials seized from the PAC;
3. Take all necessary steps to remedy this unfortunate situation and undo the damage done to the Negotiation Process;

And Resolves To:

1. Meet on Thursday 27 May 1993 at 19h00 to examine matters arising from this issue in greater detail.

**RESOLUTION AFTER THE SPECIAL SESSION OF
THE NEGOTIATING COUNCIL OF 27 MAY 1993**

This Negotiating Council meeting at the World Trade Centre on Thursday 27 May 1993:

Concerned:

That the Negotiating Process must continue uninterrupted and reach a conclusion which will inspire confidence and optimism in all sections of South African society;

Resolves:

1. To urge all participants to comply with the relevant resolutions already passed;
2. To urge the PAC to remain part of the Negotiating Process;
3. To request the PAC and the Government to have a bi-lateral discussion as a matter of urgency to resolve their differences;
4. That the Negotiating Council is kept informed of the progress in the bi-lateral talks;
5. That Governments, Administrations, Political Organisations and the security forces are hereby urged to do everything possible to create harmony, peace and a conciliatory climate for the Negotiation Process.

RESOLUTION ON CONSTITUTIONAL ISSUES

HAVING NOTED:

The clear linkage between constitutional principles, the constitution-making process and constitutional structures, powers and functions of SPR's as apparent in paragraph 6.3 of the Second Report of the Technical Committee on Constitutional Issues.

IT IS RESOLVED THAT:

1. The Negotiating Council proceeds 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, 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.
2. There is a need for the adoption of a Constitution for the transitional period, the text of which is agreed to at the Multi-Party Negotiating Process:
 - 2.1 Which shall be drafted in accordance with the constitutional principles agreed upon in so far as they may be applicable;
 - 2.2 Which will provide, inter alia, for justiciable fundamental rights, the structures of national and regional governments and their respective powers, functions and authority; and
 - 2.3 As well as which will provide for the procedures relating to the drafting and adoption of a Constitution by the elected constitution-making body.
3. **Now therefore 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 during the transitional period;
 - 3.2 The constitution-making process to be followed, including the structures that need to be established for that purpose;
 - 3.3 The procedures to be followed in the drafting and adoption by the Multi-Party Negotiating Forum of a Constitution for the transitional period;
 - 3.4 The procedure to be followed thereafter in the drafting and adoption of a Constitution by an elected constitution-making body.

RESOLUTION ON AN ELECTION DATE

The Negotiating Council recommends to the Negotiating Forum of 25 June 1993 that the date of the election shall be 27 April 1993, but however with a view to maximise consensus on this matter, the Negotiating Council decides to finalize this matter on 15 June 1993.

Should a final settlement be reached at an earlier date to enable an election to be held earlier, the Negotiating Council should set an earlier date; while the period over which the election is to be held will have to be decided upon in co-operation with the Independent Electoral Commission.

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