

DRAFT AGENDA AND DOCUMENTATION

for the meeting of the
PLANNING COMMITTEE
to be held at 09H30 on Monday

6 SEPTEMBER 1993

DRAFT AGENDA FOR THE MEETING OF
THE PLANNING COMMITTEE TO BE HELD ON
6 SEPTEMBER 1993 FROM 09H30-13H00
AT THE WORLD TRADE CENTRE

Chair: C Eglin

Moment of prayer/meditation

Welcome and attendance

Ratification of agenda

Minutes

4.1 Ratification of the minutes of:

4.1.1 9 August through to 12 August 1993 (see Addendum A1, p5)

4.1.2 16 August 1993 (see Addendum A2, p31)

4.1.3 17 August 1993 (see Addendum A3, p43)

4.1.4 19 August 1993 (see Addendum A4, p47)

4.2 Matters arising out of the minutes of:

4.2.1 9 August through to 12 August 1993

4.2.2 16 August 1993

4.2.3 17 August 1993

4.2.4 19 August 1993

4.3 Further minutes will be distributed during the course of the day for ratification
at a future meeting of the Planning Committee

Substantive Issues

5.1 Constitutional Issues:

5.1.1 Progress report on the bilaterals and/or multilaterals dealing with the
following issues:

r Citizenship laws and SPR Citizenship

o Comptencies of SPR\200\231s

Â» SPR taxes

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The continuation, transfer and consolidation of existing
administrative responsibility

SPR Constitutions

The name for SPR\200\231s

Definition of the National Territory

Languages

The deadlock-breaking mechanisms set out in Chapter 5

Whether the Constitutional Assembly will have the power to

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alter the number, boundaries and powers of SPRâ\200\231s described in the Constitution for the transitional period

The issue of the TBVC States

Submission by the National Electrification Forum

The fleshing out of the adopted Constitutional Principles
The Constitutional Court - its composition and functioning
The deadlock-breaking mechanisms

The issue of boundaries

Self Determination

Confederalism

Traditional Leaders

b s e B TER O JEE BE AR

Facts around the General Council of the Bar and the Chief Justice meeting with K Coetsee

The procedure/process for the drafting of citizenship legislation - recommendation from Sub-Committee

Financial Matters in the run up to the elections (transformation and rationalisation) : Recommendation from the Sub-Committee with regard to the technical input on this issue

Commission on the Demarcation/Delimitation of Regions:
Progress Report by the Sub-Committee on the work of the Commissioners and the Technical Support Team

Planning for the implementation and practical application of the three (four) Bills, including informal preparation for the operation of the structures:

Report from the Sub-Committee

The role of the international community, including definition and present role in other structures:
Report from the Sub-Committee

The processing of the three (four) Draft Bills through Parliament:
Report from the Sub-Committee

Commission on National Symbols and Language:
Implementation of the resolution establishing the Commission. The Sub-Committee is to report back on the names received with recommendations

Fundamental Human Rights during the Transition:
Report back from the Sub-Committee on:

5.7.1 Progress report on the receipt of inputs from experts on customary law

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5.7.2 Progress report on the work of the Committee

Repeal or Amendment of Discriminatory Legislation:
Recommendation from Sub-Committee with regard to proposed Commission
to deal with the identification of Discriminatory Legislation

Violence:

5.9.1 A report from the Communications Committee on what public
broadcasters could do with regard to creating an awareness of the
negotiating process is awaited

5.9.2 Current work programme - report from the Sub-Committee

TEC and its Sub-Councils:

5.10.1 The debate on the Final Draft Bill will commence the meeting
of 6 September 1993

5.10.2 Progress report on the bilaterals and/or multilaterals dealing
with:

- * Clause 22 (information)
- . Clause 23 (the decision-making mechanism)

PAC/SA Government Issue

Reportback from the Ad-Hoc Committee appointed for the issue to be finalised

Stolen and Burnt ID Documents

Reportback from the Sub-Committee

Traditional Leaders (see Addendum B, p59)

Procedural issues

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6.2

Women and the TEC

Implementation of decision on Liaison Committees:

6.2.1 The National Economic Forum (date of meeting)

6.2.2 Local Government Negotiation Forum (date of meeting)

Report from the Ad-Hoc Committee with regard to the legal action by the
Kwazulu Government

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Administrative and Financial matters

7.1 Prosecutions and Goldstone recommendation - Reportback from the Sub-Committee

7.2 Correspondence to be dealt with:

7.2.1 African Industrial Development Corporation (see Addendum C, p82)

7.2.2 Visit to WTC by individuals who want to distribute Bibles (see Addendum D, p85)

7.3 Public availability of documents : Sub-Committee to report back

Agenda and Programme for the Negotiating Council (see Addendum E, p36)

Schedule of Meetings (see Addendum F, p88)

Closure

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

DRAFT MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 10H00 ON MONDAY 9 AUGUST 1993 THROUGH TO THURSDAY 12 AUGUST 1993 AT THE WORLD TRADE CENTRE

PRESENT : B Alexander
R Cronje
C Eglin
PJ Gordhan (Chairperson by rotation)
RP Meyer
MC Ramaphosa
Z Titus
M Webb
L Landers (incoming Chairperson of the Negotiating Council)

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

T Eloff (Administration)
G Hutchings (Minutes)
1. Moment of Prayer/Meditation

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

2. Welcome and Attendance
2.1 All members were welcomed.

2.2 Apologies were noted for non-attendance by FT Mdlalose, B Ngubane (sub-committee) and J Slovo.

2.3 Apologies for late arrival were noted by R Meyer.

i Ratification of Agenda
The agenda was ratified with the following amendments:

* The addition of an item 5.1.4.3 to read "Goldstone - Report back from the

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Sub-Committee";

" The addition of an item 5.1.6.1 to read "Letter from the Campaign for Open Media";

. The addition of an item 5.1.7.5 to read "Reference to Legal Bodies - Report from the Sub-Committee";

* The addition of an item 5.2.3 to read "Goldstone - Report back from Sub-Committee";

* The addition of an item 7.12 to read "Beacon Sweets".

Minutes

It was noted that the minutes would be distributed during the course of the day and dealt with at a future meeting of the Planning Committee.

Substantive Issues

5.1 Reports in the Negotiating Council for the week 2-5 August 1993:

5.1.1 Violence:

3.1:1.1 It was noted that the Report of the Violence Technical Committee had been couriered to participants on Friday

6 August 1993.

5.1.1.2 The recommendation in the report with regard to "communications" was noted.

5.1.1.3 It was further noted that the Negotiating Council was not in a position to take this issue further except on an ad-hoc basis.

5.1.2 Constitutional Issues:

121 SPR Constitutions:

It was agreed that this issue stands over until the second draft of the interim constitution had been dealt with.

5.1.2.2 It was noted that the Technical Committee on Constitutional Issues and the discussion of its reports were scheduled for Tuesday 10 August and Wednesday

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5.1.3 TEC and its Sub-Councils:

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It was noted that the Report was couriered to participants on Friday 6 August 1993.

It was noted that the Report is scheduled for discussion in the Negotiating Council on Thursday 12 August 1993.

Independent Electoral Commission:

5.1.4.1

5.1.4.2

It was noted that a meeting of the Ad-Hoc Committee was scheduled for 9 August 1993.

It was noted that once the Ad-Hoc Committee had resolved the issues referred to it, the results thereof would be forwarded to the Technical Committee and to the Technical Committee on the TEC and its Sub-Councils.

Goldstone - Reportback from the Sub-Committee:

Â¥ A reportback was given by the Sub-Committee. The Sub-Committee requested guidance from the Planning Committee with regard to its follow-up discussions with the Goldstone Commission.

It was agreed that the Goldstone Commission should be thanked for its co-operation in submitting the Report of the Commission on Violence in the run up to the Elections directly to the Multi-Party Negotiating Process.

The Sub-Committee is to raise the concern of public disclosure prior to the report being received by the Multi-Party Negotiating Process.

The Sub-Committee was requested to explore possible future overlaps and to make recommendations on how best these overlaps should be dealt with. It was suggested that, if necessary, the Planning Committee may have to meet with the Goldstone Commission on the issue of future overlaps.

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" The issue of the Joint Peace Keeping Force had also been raised by the Sub-Committee with the Goldstone Commission in the light of its work on this issue. The above points were also applicable in this instance.

5.1.5 Repeal or Amendment of Discriminatory Legislation:

5.1.5.1

5.15.2

9.1.5.3

The Sub-Committee gave a reportback on the work of this Technical Committee. It was noted that with regard to the questions of mechanisms, the "Higher Code", implications thereof, etc. this Technical Committee, the Technical Committee on Fundamental Human Rights during the Transition, the Technical Committee on Constitutional Issues and the Technical Committee on the Independent Electoral Commission were meeting jointly on 10 August 1993 in order to arrive at a common position on these issues.

It was noted that the Sub-Committee would report back to the Planning Committee on the joint meeting of the Technical Committees.

It was noted that the Sub-Committee would meet with this Technical Committee on 10 August 1993 with regard to its initial instructions from the Negotiating Council. The Sub-Committee would also report back to the Planning Committee in this instance.

5.1.6 Independent Media Commission and IBA:

5.1.6.1

5.1.6.2

It was noted that the Technical Committee will, during this week, give a date when it will be ready with its next report. '

Letter from the Campaign for Open Media:

g After discussion it was agreed that no member of a Technical Committee, as per a decision in the Negotiating Council, may comment on their work publically.

Â¥ The Sub-Committee was requested to take this issue up with D Dison.

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5.1.7 Fundamental Human Rights during the Transition:

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It was noted that the Ad-Hoc Committee was scheduled to meet on 9 August 1993. The Technical Committee could only proceed with its work once it had received a report from the Ad-Hoc Committee after its deliberations.

It was noted that the Technical Committee was meeting on Tuesday 10 August 1993 and a report would be ready on Thursday 12 August for distribution.

Referral to Legal Bodies with regard to the enforcement mechanisms and implementation of the Bill of Rights - Report from Sub-Committee:

It was noted that the Sub-Committee would discuss this issue at the joint meeting of the Technical Committees on Tuesday 10 August 1993 and report back to the Planning Committee. It was suggested that the Law Commission should also be considered.

Commission on the Delimitation/Demarcation of Regions:

5.1.8.1

5.1.8.2

3.1.8.3

It was noted that the report would be discussed on Monday 9 August 1993 and Tuesday 10 August 1993. The Technical Staff of the Commission would sit in on the debate.

The meeting then proceeded to discuss the structuring of the debate in the Negotiating Council on the report of the Commission.

After discussion the following was noted:

- * The Report of the Commission was a preliminary report and should be treated as a first step in the process of evolving firmer boundaries for South Africa;

- . The purpose of the debate in the Negotiating Council on 9 August 1993 was to identify the areas of difficulties and once this had been done, the focus would be on these;

- " In the process to firm up the boundaries, the mechanisms of submissions from within and

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outside the Negotiating Council and local hearings should be utilised in respect of the areas of difficulty;

The Sub-Committee was requested to explore with the Commission its availability for further work. If the Commission was available, the Sub-Committee should formulate Terms of Reference for the continuing work. The Technical Support Staff would also be made use of;

Time frames was also an issue to be considered;

The Sub-Committee was requested to contact the Co-Chairpersons of the Commission to get clarity on their viewpoint with regard to Section 4 of the report.

It was suggested that a resolution on the report should be put forward for the consideration of the Negotiating Council at the end of the debate to facilitate the way forward on this issue.

It was agreed that the Planning Committee meets over the afternoon tea break to assess the debate and formulate a resolution to be put forward for the Negotiating Council.

The letter from the KP on this issue was noted (see Addendum A).

5.2 Violent Deaths of People on the East Rand:

5.2.1 The Sub-Committee gave a reportback on this issue to the Planning Committee. The Sub-Committee would submit a recommendation to the Planning Committee after it had received a further report with regard to security during the course of the day.

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The Sub-Committee noted that it was considering other practical and effective measures to address the issue of violence and was not giving the issue of a Joint Peace Keeping Force its attention. This was due to the fact the Joint Peace Keeping Force was being addressed in the latest report of the Technical Committee on the TEC and its Subcouncils and in a report of the Goldstone Commission (this report would reach Planning Committee members by Wednesday 11 August

1993).

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5.2.3 Goldstone - Report from the Sub-Committee:

It was agreed that this issue had been dealt with under Item 5.1.4.3 above.

PAC/SA Government Issue:

It was noted that the PAC was ready to meet with the ad-hoc committee on this issue. Once the meeting had taken place, a report back would be made to the Planning Committee.

The Ad-Hoc Committee on the TBVC States:

It was noted that this Ad-Hoc Committee was scheduled to meet after the adjournment of the meeting of the Negotiating Council on 9 August 1993.

National Symbols:

The recommendation of the Sub-Committee was approved of and would be submitted to the Negotiating Council (see Addendum B). It was agreed that the concept of a seal should be catered for. The dates as specified were acceptable to members.

The name of the Constitution-Making Body:

After discussion it was agreed that the name "Constitutional Assembly" should be submitted to the Negotiating Council as the recommendation from the Planning Committee in this regard.

The names for SPRâ\200\231s:

After discussion it was agreed that this issue stands over. It was further agreed that informal discussion was needed on this issue between participants.

The Attack on the Technical Committee and individual members of the Technical Committeeâ\200\231s in the media:

After discussion it was agreed to not take this issue further.

Standing Committees of Parliament and draft legislation on the IEC, TEC IMC and the IBA:

It was agreed that this issue stands over and the Sub-Committee reports back to the Planning Committee at a future meeting of the Planning Committee.

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5.10 Ad-Hoc Committees:

5.10.1 Concerns were expressed with regard to the progress of the work of the Ad-Hoc Committees.

5.10.2 It was agreed that if two thirds of the members of the Ad-Hoc Committee were available, the meeting should proceed.

5.10.3 It was noted that an appeal should be made in the Negotiating Council for all Ad-Hoc Committees to proceed expeditiously with their work.

5.10.4 It was agreed that the Sub-Committee should notify all Ad-Hoc Committee members that they should meet on or before Wednesday 11 August 1993.

Procedural Issues

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Report from the Ad-Hoc Committee with regard to the Legal Action by the Kwazulu Government:

A reportback was given on this issue by PJ Gordhan. It was noted that the first application had been withdrawn but that new papers had been served.

Avstig - Report from the Sub-Committee:

A reportback was given on this issue by the Sub-Committee. After discussion it was agreed that Avstig be requested to make a further submission to the Planning Committee, if they so wished and that all submissions by Avstig should be made available to Planning Committee members after which a decision should be made on this issue.

Follow-up on the meeting held with the National Economic Forum and the Local Government Negotiating Forum:

It was agreed to defer this issue until a future meeting of the Planning Committee. All members should apply their minds to this issue and in particular the question of what mechanisms should be created to cater for the issues raised in both meetings. (See Item 7.6 for the meeting of the Planning Committee with the LGNF.)

Administrative and Financial Matters

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Security (Reportback from the Sub-Committee):

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It was noted that there was nothing to report with regard to this issue.

Prosecutions after 25 June 1993 (Reportback from the Sub-Committee and the Administration):

7.2.1 It was noted that the Sub-Committee had nothing to report on this issue.

7.2.2 T Eloff gave a reportback on his meeting with the representatives of the Attorney General's office and the SAP. The Planning Committee would be kept informed of progress/developments in this regard.

Implementation of the recommendations of the Goldstone Commission Report:

It was agreed that the Sub-Committee follows up on this issue with the Departments involved.

Correspondence:

7.4.1 Memorandum of the ANC Youth League, Mafikeng:

The memorandum was noted (see p14 of the agenda documentation).

7.4.2 Joint resolution of staff and students of the University of Bophuthatswana:

The memorandum was noted (see p15 of the agenda documentation).

7.4.3 Interim Committee of the National Returnees Forum:

The letter was noted (see p17 of the agenda documentation).

Arbor Day:

It was noted that the Tree Planting Ceremony would now take place on Thursday 12 August 1993 at 17h00. A cocktail party would be held for participants and staff after the Ceremony.

Meeting with Local Government Negotiation Forum:

7.6.1 The members of the Local Government Negotiation Forum (LGNF)

were welcomed. The Planning Committee members were introduced.

The members of the Local Government Negotiating Forum introduced

themselves. Present were:

* Non Statutory:

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7.6.4

A Boraine

J Momberg

S Manie

M Mayekiso

V Mayekiso

M Motshekga

L Tsenoli (Co-Chairperson)

i Statutory:

A Cornelisen

I Davidson

J Makda (Co-Chairperson)

N Mandy

J Sadie

D Schoeman

A briefing on the background, constitution and membership of the LGNF was given by the Co-Chairpersons.

An outline of the Multi-Party Negotiating Process was given by PJ Gordhan, the current Planning Committee Chairperson.

Discussion followed and questions of clarity were put to Planning Committee members by LGNF members. Various overlaps between the two processes were taken note of:

" Local government is referred to in the Constitutional Principles that have been adopted by the Negotiating Council. The Administration was requested to provide the LGNF members with copies of the Constitutional Principles.

» Provision is made for local government in the Transitional Constitution. The Administration was requested to make copies of the Second Draft Bill available to the LGNF members.

* With regard to the SPR's, local government is one of the functional areas.

¥ The Transitional Executive Council has a local and regional government Subcouncil through which provision had been made for liaison with the LGNF.

. The TBVC States was an issue that was being addressed by an Ad-Hoc Committee which had been established by the Negotiating Council. This Ad-Hoc Committee would submit recommendations to the Negotiating Council which would

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encompass the local government issue.

7.6.5 The Planning Committee requested that the LGNF provides copies of the Interim Draft Bill that the LGNF is proposing. The question was raised as to how to link the Draft Bill to the package of agreements that the Multi-Party Negotiating Process was in the process of establishing.

7.6.6 Time frames was an issue that was identified as an area of concern. It was noted that the process had a target date of the second week of September.

7.6.7 It was noted that the following potential contributions from the LGNF were important:

i The TEC and its Subcouncil on Local and Regional Government;

â\200\235 The provisions for the creation of a Secretariat for the SPRâ\200\231s in the period that the TEC operates;

g Chapter 10 of the Transitional Constitution;

* The functional areas of SPRâ\200\231s and any other relevant areas in the Transitional Constitution;
- The issue of the TBVC States.

7.6.8 It was agreed that an exchange of documentation was important to keep both processes informed and a mechanism should be set up to ensure this exchange takes place regularly.

7.6.9 It was agreed that the Planning Committee should apply its mind to what mechanism could be set-up with regard to the substantive content of the issues under discussion in both processes. The Planning Committee would submit suggestions to the LGNF in this regard. It was noted that the Technical Committee would be made aware of the meeting and recommendations could also be received from the Technical Committees in terms of how best to effect liaison with the LGNF with regard to the substantive content of the documentation and Draft Bills that are being prepared in the negotiating process.

7.6.8 It was noted that a joint general statement would be released to the media with regard to the meeting between the Planning Committee and the LGNF. The statement would not be released before the Planning Committee had reported back to the Negotiating Council on the meeting. It was further noted that the LGNF members would prepare a statement and submit it to the Planning Committee for approval before it was released.

7.6.9 The LGNF members were thanked for the meeting and were also

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congratulated on its work so far achieved.

7.7 Request from M Finnemore on Questionnaire:

7.7.1 After discussion it was agreed to treat this request as an informal matter between M Finnemore and the women delegates themselves.

7.7.2 It was agreed to inform M Finnemore that she could discuss the questionnaire with the women delegates on an informal basis. The women delegates could comply with the request on a voluntary basis.

7.7.3 It was agreed that this item be removed from the Planning Committee agenda. If a need arose for the Planning Committee to discuss this item again, it could then be reintroduced on to the agenda.

7.8 Financial Fact Sheet:

This was not available for the meeting yet.

7.9 Finances:

7.9.1 M Markowitz:

After discussion it was agreed to refer this issue to the Sub-Committee for its attention and to submit a recommendation to the Planning Committee.

7.9.2 P Soal:

It was noted that P Soal was claiming the cost, for damages to his car during the Attack on the Negotiating Process. This request was not agreed to.

7.10 Extra copies of documents to participants:

After discussion it was agreed that participating organisations should all be limited to the copies of documents that they are furnished with.

7.11 Resolutions of the Communications Committee: (see Addendum J, p32 of the agenda documentation)

T1 After discussion on the resolutions it was agreed that:

* At this stage the Planning Committee could not recommend that a Multi-Party Mechanism be

established as the source of public comment and information from this Forum;

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The Planning Committee is not averse to any initiative, particularly by the SABC, to keep the public informed about what is happening in the process and such initiative should be encouraged;

At this stage the Planning Committee could not recommend the acceptance of most of the resolutions.

The Sub-Committee was requested to convey the views of the Planning Committee to the Communications Committee with regard to its resolutions.

It was suggested that, subject to the meeting of the Sub-Committee with the Communications Committee, the Communications Committee be disbanded.

Beacon Sweets:

A request from Beacon Sweets to base an advertisement on the fact that delegates use Beacon Sweets in Council meetings was not agreed to.

Draft agenda for the meeting of the Negotiating Council of 9 August 1993

The agenda was approved of (see Addendum C).

Meetings Schedule and Programme

The Administration and the Sub-Committee were requested to amend the schedule and the programme taking into account the views expressed in the meeting.

The meeting adjourned at 13h45.

The meeting reconvened at 17h00.

10.

Statement from the LGNF

The Planning Committee approved of the draft statement as submitted by the LGNF.

It was noted that the statement had not yet been distributed to the media, but would be.

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A letter to the legal firm acting on behalf of the process confirming that new papers had been served and that the relevant action should be taken was approved of (see Addendum C).

12. Resolution on the Report of the Commission on the Delimitation/Demarcation of Regions

The proposed draft resolution, as amended, was approved of and would be submitted to the Negotiating Council (see Addendum D).

13. Report from the Sub-Committee with regard to the Co-Chairpersons of the Commission on the Delimitation/Demarcation of Regions

13.1 It was noted that the Sub-Committee had had a discussion with F Smit on Chapter 4 of the Report. Discussion followed.

13.2 After discussion the following was noted:

Â® It was suggested that the Technical Staff be requested to prepare a technical report to flesh out the recommendations section of the Report. The technical report should address how the criteria were applied and how relevant they were.

i It was agreed to recommend to the Negotiating Council that the Co-Chairpersons, with the assistance of the Technical Support Staff, be mandated to go to the "sensitive" areas, have local hearings, analyse any further submissions and present the Negotiating Council with a further report, subject to the time frames set by the Negotiating Council. The further report should reflect the verbal and written evidence heard on each of the "sensitive" areas and make recommendations. Ultimately it was the Negotiating Council who would take a decision on this issue, based on the evidence and recommendations before it.

14. Follow up on the meeting held with the National Economic Forum and the Local Government Negotiating Forum

14.1 It was agreed that the following Planning Committee members should liaise with the National Economic Forum on relevant issues:

C Elgin
* J Slovo
* M Webb.

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14.2 It was agreed that the following Planning Committee members should liaise with the Local Government Negotiation Forum on relevant issues:

ki R Cronje
. PJ Gordhan
% Z Titus.

15. Visit to the East Rand

The Sub-Committee reported back on this issue. It was noted that the situation was such that the Negotiating Council could visit the area either on Tuesday 10 August or Wednesday 11 August 1993. It was agreed that the Planning Committee meets on Tuesday 10 August 1993 at 08h45 to get a report from Security and to discuss logistical arrangements for the visit. It was agreed not to announce the visit to the Negotiating Council until the meeting of the Planning Committee scheduled for 10 August 1993 had been held and the final details resolved.

16. M Markowitz

The Sub-Committee recommendation that M Markowitz be remunerated for his work completed, was agreed to. It was noted that a general notice should be forwarded to all Technical Committees stating that before such action is taken, approval should be sought.

17. Goldstone Commission

17.1 The Sub-Committee gave a further report to the Planning Committee with regard to the report of the panel. It was noted that the Goldstone Commission would submit the findings of the panel to the Multi-Party Negotiating Process on Wednesday 11 August or Thursday 12 August 1993.

17.2 It was agreed that the Technical Committee on the Independent Electoral Commission reads the report of the panel and if it had a need to consult with any of the experts, it was free to do so.

The meeting adjourned at 17h45.

The meeting reconvened at 09h10 on Tuesday 10 August 1993. Apologies for non-attendance was noted from FT Mdlalose, B Ngubane (Sub-Committee), C Ramaphosa and

J Slovo. D de Villiers was present at the meeting as the incoming Chairperson of the Negotiating Council.

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Resolution on the Report of the Commission on the Delimitation/Demarcation of Regions

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Discussion proceeded on this issue around the areas of difficulty as identified in the meeting of the Negotiating Council of 9 August 1993.

After discussion, it was agreed to amend the draft resolution, on the basis of the concerns expressed in the Negotiating Council and the views expressed in the Planning Committee. The amended resolution would be put before the Negotiating Council for adoption.

Proposed Resolution on Walvis Bay

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Discussion proceeded on this issue. After discussion it was agreed that further bilaterals and/or multilaterals are needed on this issue.

After further discussion, it was agreed to refer this issue to the Technical Committee on Constitutional Issues, which will take into account the different viewpoints and should attempt to find a formulation which recognises the interstate status of Walvis Bay. This should also recognise the UN Resolution in respect of Walvis Bay and the current status of negotiations between the South African Government and the Namibian Government. This would be an interim solution and then the Interim Government should finally resolve this issue. :

The draft resolution that had been placed before the Negotiating Council would, therefore, be withdrawn. It was agreed that the Sub-Committee be mandated to draft a resolution along the basis of Item 19.2 above to put before the Negotiating Council.

It was agreed that PJ Gordhan, as the current Planning Committee Chairperson, would report back on this issue to the Negotiating Council.

Visit to the East Rand

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20.2

The Sub-Committee gave a reportback on this issue.

It was agreed to recommend to the Negotiating Council that the visit to the East Rand takes place on Wednesday 11 August 1993. The Sub-Committee and the Administration were mandated to take care of the logistical arrangements. Furthermore, the Sub-Committee and the Administration were requested to submit a recommendation to the Planning Committee with regard to the time of the visit and any other related issues.

The meeting adjourned at 09h45.

The meeting reconvened at 13h55. C Ramaphosa was present at this part of the meeting.

21. Proposed Resolution on Walvis Bay

Discussion proceeded around the issue and the further proposed resolution. After lengthy discussion, no agreement could be reached on this issue and it was agreed to defer the discussion to a meeting of the Planning Committee on Thursday 12 August 1993. It was suggested that further informal discussion on this issue was needed.

The meeting was adjourned at 14h25

The meeting reconvened at 14h40 on Thursday 12 August 1993. Apologies for non-attendance were noted from FT Mdlalose, B Ngubane (Sub-Committee) and J Slovo. Apologies for late arrival were noted from R Meyer.

22. Proposed Resolution on Walvis Bay

Discussion proceeded on this issue. R Meyer requested that the issue stands over until Monday 16 August 1993. This would allow adequate time for necessary consultations. After further discussion, it was agreed that R Meyer should put forward his request and motivation thereof in the Negotiating Council meeting for acceptance. The Chairperson of the Negotiating Council should allow R Meyer the opportunity to put forward his request.

The meeting adjourned at 14h45.

PLANCOMM/MINUTES/MIN0908

17 25 August 1993

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These minutes were ratified at the meeting of the Planning Committee of 1993
and the amended

version signed by the Chairperson of this meeting on 1993.

CHAIRPERSON

PLANCOMM/MINUTES/MIN0908
18 25 August 1993

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sasdid DIE KONSERWATIEWE PARTY VAN SUID-AFRIKA

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Dr. J.A.L. The Metropolitangebou 501 Metropolitan Building 0001
Skinnerstraat 159 Skiuner Street Faks: (012) 216910

PRETORIA

Juitj THE CONSERVATIVE PARTY OF SOUTH AFRICA
e s e =y

URGENT

4 ? August 1993

ATTENTION : DR THEUNS ELOFF

MULTI-PARTY NMEGOTIATING COUNMCIL
P O Box 3@7, lsando, 1608 Fax 211-397-2211

LTt MR DA LOND LS

ation/Delimitation today.

we understand the Council is discussing the Report on D-mar-%

Herewith our strongest objection to any discussion of the contents
of the report as submitted to the Council. 3

SIRTCPRL IS o B KT RPN

we ragard this Report as directly contravening; alternatively out-:
side the ambit of the Resolutions accepted by the Negotiating#
Council and Forum by which the mandate of the Commission had beeng
established.

P T A

i' Attached our arguments for objection.
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N AadVE T. LANGLEY MP

CONSERVATIVE PARTY OF SOUTH AFRICA

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MULTI-PARTY NEGOTIATING COUNCIL
P O Box 307, Isando, 1600 Fax 011-397-2211

6 Augusts 1993

REPORT OF THE COMMISSION ON THE DEMARCATION/DELIMITATION
OF STATES/PROVINCES/REGIONS (SPR'S)

M:nority reports

According to Reyneke, page 82:

1. The Commission did not comply to their terms of reference. They have not executed the instructions of the Negotiating Forum.

2. The Commission solved the wrong problem. He accuses the Commission of only demarcating Regions. Reyneke says that only oae hour before the end of their final meeting, many references to Regions were changed to SPR's only on his request.

This is a very serions allegation and accusation. Before we can continue any further with the discussion of this document, we have the responsibility to determine the truth as well as the status of this Report.

Looking at the Report it does look suspicious and Reyneke's accusation is underlived as well as confirmed by none less than the Comnssion it self

On page 79 commenting on the minority opinmions, uader the Reyneke opinion, second sentence, the Commission confirms ..." The Commission is satisfied that it applied the criteria for the demarcation/delimitation of REGIONS.." Not SPR's as

instructed by the Council, but Regions.

Further evidence is also supplied by the Comutission with the Report as such:

The Report, as it stands, with the "many â\200\234regions already changed w SPR'S'â\204¢ 10 accommodate Reyneke, still containg more or less 35 references to REGIONS.

Having a closer look at both references to SPR's as well as regions, the Report does support Reyneke's accusatiom. There are more or less 25 references to SPR's in the first two chapters and close to 40 in the front part of the Report. On the other hand, there are very few references to SPR's in the latter part of the Report whilst almost all 35 references to regioas are in the latter part, from pages 26 to 39, on the contrary, hardly any references to regions appear in the first half of the Report.

MemmmWW'smm that the Commission only demarcated Regions and not States/Provinces/Regions as instructed by the Council.

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The Media Statement after the first meeting of the Commission, also supports Reyneke's view and reads: "Media statement after the first meeting of the Commission on the Demarcation/Delimitation of Regions.."

The Media Statement further only mentions Regions and then only invites evidence from parties or persons to make submissions of regions to the Commission. This was then communicated to all editors of newspapers (national, regional and local), Media agencies, 26 parties, other negotiating fora, Provincial Administrations and Regional Services Council's Civics, organised business, agriculture and the SABC.

This is a very serious state of affairs and needs further investigation if we do consider to even carry on any further discussion of the contents of this report. AS IT STANDS BEFORE US, IT SEEMS TO BE, WITH VERY STRONG SUPPORTING EVIDENCE, ONLY A REPORT ON REGIONS, THUS TO US WORTHLESS IF WE HAVE TO DISCUSS STATES/PROVINCES/REGIONS.

. In this regard, I would like to refer the Council to the 21 July 1993 Reports and Recommendations from the Council to the Forum, section three, 5.2.1, "That the Forum confirms the establishment of a Commission on the Delimitation/Demarcation of SPR's, which shall report to the Council. (Resolution 12 of the Council of 28 May 1993)

« I would also like to refer the Council to Resolution 12 adopted by the Negotiating FORUM on 2 July 1993, referring to States/provinces/Regions on seven different occasions in less than two pages. References to Regions are none.

In this Resolution 12 WE, THE NEGOTIATING COUNCIL appoint 15 persons as members of a Commission on States/Provinces/Regions to make recommendations to us, the Negotiating Council within six weeks, on the delimitation of States/Provinces/Regions.

In the light of the serious accusation of Reyneke with disastrous implications if we wmmmmuaummsamwm, WE HAVE NO OTHER CHOICE THAN TO REJECT THIS REPORT ON EVIDENCE BEFORE US.

If however, we do consider with this upon because evidence is not yet sufficient to reject it, then the Commission, agendas, memorandum for briefing, media statements, invitations, advertisements, notices and minutes, to determine whether it is of any use to try to bring something that it is not. In the future, as it stands before us, it is of no use to any of the Commission's contents!

It is clear that the Commission's mandate of the Commission had been established. Resolutions accepted by the Negotiating Council and Forum by which the mandate of the Commission had been established.

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PLANNING COMMITTEE RECOMMENDATION TO THE
NEGOTIATING COUNCIL ON 10 AUGUST 1993

The Planning Committee recommends that a Commission be appointed to make recommendations to the Negotiating Council on the national symbols for the

Constitutions for the transitional period. It is proposed that -

1. The terms of reference for such a commission could be those contained in the

attached draft resolution;

2, at least ten but not more than fifteen people be appointed on the commission;

3. participating parties be asked to lodge nominations for appointments on the

commission to the Administration on or before Tuesday 17 August 1993;

4, and that the Planning Committee should make recommendations on the composition of the Commission to the Council on or before Thursday 19 August 1993.

PLANCOMM\DOCUMENTS\SYMBOLS.108

26 August 1993

DRAFT RESOLUTION
ON A COMMISSION ON NATIONAL SYMBOLS: 10 AUGUST 1993

1. Whereas in the deliberations concerning a constitution for the transitional period, the question of national symbols will have to be addressed;
2. And whereas this is an extremely emotional issue that will have to be dealt with with the utmost sensitivity;
3. But whereas cultural, artistic and technical aspects are also to be taken into account;
4. We, the Negotiating Council, hereby appoint
as members of a Commission on National Symbols to make recommendations before the end of October 1993 to us, the Negotiating Council, or to any body that might at that time have replaced the Negotiating Council, on a national flag, a coat of arms, a seal and an anthem
for the Constitution for the transitional period.
- 3 The Commission is requested to -
 - 5.1 invite proposals from all interested persons or parties and to allow at least one month for submissions to be made;
 - 5.2 take into account the diversity of the South African population but concentrate on the unifying function that national symbols must serve;
 - 5.3 and in its recommendations submit at least four alternative flags and coat of arms.

PLANCOMM\DOCUMENTS\SYMBOLS.108
26 August 1993

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DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON MONDAY 9 AUGUST 1993 AT 13H30

Chairpersonship - L Landers assisted by DJ de Villiers
Moment of Prayer/Meditation
Welcome and Attendance
Ratification of Agenda
Minutes will be distributed for ratification later in the week
Reportback from the Planning Committee

Substantive Issues

6.1 Report of the Commission on the Demarcation/Delimitation of Regions:

Administrative and Financial Matters
Meetings Schedule and Draft Programme

Closure

NEGCOUNS/AGENDA/AGEN0408
August 26, 1993

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DRAFT RESOLUTION ON THE REPORT OF THE COMMISSION ON THE
DELIMITATION/DEMARCATIION OF REGIONS AND THE WAY FORWARD
9 AUGUST 1993

This Negotiating Council meeting on 9 August 1993 at the World Trade Centre in Kempton Park:

L Noting the various discussions on the Report of the Commission on the
Delimitation/Demarcation of SPRâ\200\231s;

2. Confirms that the Report of the Commission provided a useful starting point to the
discussion on the delimitation/demarcation of SPRâ\200\231s.

3. Takes note of a number of areas of agreement and some areas of disagreement on
~ the Report identified by the Negotiating Council.

4. Emphasises that the people and communities who would be directly affected by the
boundaries of SPRâ\200\231s, should have a further opportunity to contribute to the process
of regional delimitation/demarcation, particularly in respect of a more detailed

consideration of the boundaries of SPRâ\200\231s, including those highly sensitive areas
identified by the Negotiating Council.

Therefore resolves:

To convey its sincere gratitude to the Commission for its valiant effort to prosecute the
extremely difficult and strenuous brief given to it by the Negotiating Council, notwithstan
ding

the extreme limitations of time and opportunity to consult more broadly.

And further resolves that the process be taken further through the following steps:

& That further submissions are invited from participants in the Negotiating Council and
from people and organisations in the sensitive areas identified in the debate in the
Negotiating Council.

2. That the Co-Chairpersons of the Commission, with the assistance of the Technical
Support Team are mandated to:

2.1 Analyse the submissions;

2.2 Receive oral evidence in respect of the sensitive areas;

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2.3 Prepare a fepon on the above and make recommendations to the Negotiating Council, which will finally decide on the boundaries.

That the Planning Committee recommends appropriate time frames for this process.

That the Co-Chairpersons of the Commission and the Technical Support Team are
~ requested to prepare a Technical Report which indicates the application of the criteria
and the reasons for the different reccommended regions.

PLANCOMM/DOCUMENTS/COMMISS. WFR
9 August 1993

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

DRAFT MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 13H25 ON MONDAY 16 AUGUST 1993 AT THE WORLD TRADE CENTRE

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

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

T Eloff (Administration)
G Hutchings (Minutes)
1. Moment of Prayer/Meditation

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

2: Welcome and Attendance
2.1 All members were welcomed.

2.2 Apologies were noted for non-attendance by B Alexander, FT Mdlalose, B Ngubane (sub-committee) and J Slovo.

2.3 Apologies for late arrival were noted by M Maharaj (Sub-Committee) and M Webb. .

3. Ratification of the Agenda
The agenda was ratified with the following amendment:

* It was agreed that the issue of Walvis Bay should form a separate item and not fall under "Commission on the Delimitation/Demarcation of Regions".

PLANCOMM/MINUTES/MIN1608
1 26 August 1993

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4. Minutes

4.1 The minutes of the meeting of Monday 2 August 1993 were ratified with the following amendments:

* In items 6.1.1.2 and 6.1.1.3 that the name "Vilikazi" should read "Vilakazi."

4.2 The minutes of the meeting of Tuesday 3 August 1993 were ratified with the following amendments:

% In item 5.1.1 the name "Vilikazi" should read "Vilakazi".

4.3 The minutes of the meeting of Wednesday 4 August 1993 were ratified with no amendments.

4.4 Matters arising out of the minutes of Monday 2 August 1993:

* Item 1.6 refers: It was noted that the NEF had been informed about who the representatives of the liaison committee from the side of the Planning Committee were. A response was awaited from the NEF with regard to its representatives.

4.5 Matters arising out of the minutes of Tuesday 3 August 1993:

d Item 4.3, third asterisk refers: It was noted that the Administration had made enquiries with regard to the letter sent to the Ilanga. No response had been received from the said publication but the enquiries

from the Administration would continue.

u Item 5.1.9 refers: It was agreed to mandate the Sub-Committee to convey the sentiments expressed therein to the Technical Committees.

Item 6.1 refers: It was noted that the Administration had communicated the ruling referred to.

4.6 No matters arising were noted out of the minutes of Wednesday 4 August 1993.

3. Substantive Issues

5.1 Reports in the Negotiating Council until Thursday 19 August 1993:

5.1.1 Violence:

5.1.1.1 It was noted that the Report of the Technical Committee

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2 26 August 1993

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had been discussed on Thursday 12 August 1993.

It was agreed to attend to the issues with regard to the Report of the Technical Committee on Violence that had been referred to the Planning Committee, at a later stage of the meeting.

Constitutional Issues:

5.1.2.1

5.1.2.2

5.1.2.3

5.1.2.4

5.1.25

5.1.2.6

It was noted that the issue of the drafting of the preamble of the Draft Constitution had been referred to the Planning Committee for its attention.

After discussion it was agreed to refer this issue back to the Technical Committee and instruct the Technical Committee to draft two preambles, one dealing with the technical aspects of the draft constitution and one dealing with the spiritual aspects of the draft constitution.

It was agreed that the Planning Committee reports back to the Negotiating Council on the views expressed in the Planning Committee on this issue and the proposed route for the drafting of the preamble.

It was agreed that the report of the Technical Committee dealing with Confederation, self determination and the outstanding constitutional principles should be dealt with when Constitutional Issues next appeared on the agenda of the Negotiating Council in the week commencing 23 August 1993.

A lengthy debate and discussion then proceeded on SPRâ\200\231s, all the issues arising therefrom and the way forward. It was noted that all the issues that had been referred to the Planning Committee entailed political decisions.

It was suggested that interaction between participants was necessary to get clarity and agreement on the following:

- The fleshing out of the Constitutional Principles
- . The Constitutional Court - its composition and functioning
- The deadlock-breaking mechanisms
- v The issue of boundaries.

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It was further noted that the content of the Interim Constitution was important as it would form the basis for the Final Constitution.

Sk} It was suggested that bilaterals and/or multilaterals were necessary on this issue.

5.1.28 After a lengthy discussion on the issue, it was agreed to curtail the debate due to time constraints. No recommendations or decisions emerged from the discussion.

TEC and its Sub-Councils:

3.1.3.1 It was noted that the Eighth Working Draft of the Bill was discussed on Thursday 12 August 1993.

35.1.3.2 It was noted that the Technical Committee could possibly finish its work in the course of this week.

Independent Electoral Commission:

5.14.1 It was noted that the Technical Committee had, on the basis of its own inputs and recommendations from the

Ad-Hoc Committee, almost rewritten its entire report and therefore was unable to indicate all the changes.

5.14.2 Discussion proceeded on this issue with various concerns expressed.

5.143 It was agreed that the Technical Committee should motivate its action.

Visit to the East Rand:

3.1.5.1 The Sub-Committee was requested to obtain an updated report on the issue of security and report back to the

Planning Committee. A decision would then be taken on this issue.

Walvis Bay:

3.1.6.1 A further draft resolution was put to the meeting.

3.1.6.2 After a lengthy discussion it was agreed to put forward

the resolution as amended to the Negotiating Council for adoption (see Addendum A).

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6. Procedural Issues

6.1 Women and the Composition of the Planning Committee and the Panel of Chairpersons:

6.1.1 It was noted that the women's caucus was meeting on this issue.

6.1.2 After discussion it was agreed that the Planning Committee should recommend to the Negotiating Council that it agrees in principle that two women should be added to the Planning Committee and two to the Panel of Chairpersons. A recommendation with regard to the persons would be submitted to the Negotiating Council at a later stage.

6.1.3 With regard to the submission of names from the Planning Committee, it was agreed that informal discussion proceeds on this issue. PJ Gordhan was requested to co-ordinate this issue informally and the issue would be followed up when the Planning Committee next met. In making recommendations, members should ensure balanced representation and ability of the nominees. It was further agreed that the nominees should preferably be from parties/organisations/administrations who are presently not represented on the Panel of Chairpersons or on the Planning Committee.

6.2 Report of the Communications Committee:

6.2.1 The Sub-Committee gave a reportback on a meeting held with the Communications Committee. This meeting was held in accordance with the decision of the Planning Committee taken on 9 August 1993 (see Planning Committee minutes of 9 August 1993, item 7.11).

6.2.2 After discussion it was agreed to notify the Communications Committee that the Planning Committee had again considered the resolutions/questions and was of the view that the Communications Committee should continue to function on an ad-hoc basis as issues

arise. Furthermore, the Planning Committee would bear the Communications Committee in mind should larger issues arise.

7. Administrative and Financial Matters

7.1 Correspondence:

7.1.1 Request from the National Peace Committee (see Addendum J, p28 of the agenda documentation):

The request was approved of and a report would be submitted to the

PLANCOMM/MINUTES/MIN1608
5 26 August 1993

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Negotiating Council in this regard. The Administration was mandated to make all the necessary logistical arrangements and report back to the Planning Committee.

7.1.2 Request from Kempton Park City Council (see Addendum K, p29 of the agenda documentation):

The request was approved of and a report would be submitted to the Negotiating Council in this regard. It was agreed that the cake would be made available for Negotiating Council participants at the tea break on Thursday 26 August 1993.

Number of Bodyguards per delegation:

It was agreed that this should be flexible but the general rule was four per delegation and should be adhered to as far as possible.

Request from the South African History Archival Institution:

7.3.1 It was noted that the South African History Archival Institution had requested the Administration to make available the audio tapes of the meetings of the Negotiating Council.

7.3.2 After discussion it was agreed to refer this issue to the Sub-Committee for a recommendation to the Planning Committee.

Meetings Schedule and Draft Programme

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Discussion proceeded around the draft programme.

After discussion it was agreed that the Sub-Committee and the Administration should liaise with the Technical Committees in order to formulate an accurate draft programme before it was submitted to the Negotiating Council. A report should be received by the Planning Committee on this issue when it next met during the course of the day.

Concerns were again raised with regard to the work of the Ad-Hoc Committees. It was agreed that the Sub-Committee should inform the Planning Committee about the work programme of all the Ad-Hoc Committees.

Concerns were expressed with regard to the way the Technical Committee on the Independent Electoral Commission was proceeding with its work. The Sub-Committee was requested to take note of the views expressed.

PLANCOMM/MINUTES/MIN1608
6 26 August 1993

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0. Draft Agenda for the meeting of the Negotiating Council

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

The meeting adjourned at 14h25.

The meeting reconvened at 16h15.

10. Women and the Composition of the Planning Committee and the Panel of Chairpersons:

10.1 It was noted that the proposed recommendation with regard to the persons to be added to the Planning Committee, and the Panel of Chairpersons had been discussed informally with the women's caucus.

10.2 It was noted that the women's caucus wanted to meet on this issue and decide on its nominees.

10.3 After discussion, it was agreed to report to the Negotiating Council that the Planning Committee recommended that two women be added onto the Panel of Chairpersons and the Planning Committee respectively. It was agreed that the Planning Committee should then indicate that it had a proposal to put forward with regard to names and assess if the meeting wanted the Planning Committee to proceed with its recommendation.

11. Technical Committee on the Independent Electoral Commission:

The Sub-Committee gave a reportback on a meeting held with the Technical Committee. It was noted that the Sub-Committee had requested the Technical Committee to prepare a series of schedules to facilitate the debate on the report in the meeting of the Negotiating Council on 17 August 1993. Schedule One should contain all the clauses that were previously discussed and where there were no problems. Schedule Two should contain all the clauses where only technical and language amendments had taken place with no substantive changes. Schedule Three should indicate the clauses that have had substantive amendments and it is these clauses that should be debated in the Negotiating Council.

12. Technical Committee on the Independent Media Commission

12.1 It was noted that the Technical Committee would be requested to prepare schedules as referred to in item 11 above.

12.2 It was agreed that the suggestion of schedules from the Sub-Committee should be applied as a general rule for all Technical Committees. The Sub-

PLANCOMM/MINUTES/MIN1608
T 26 August 1993

Committee was requested to ensure that this suggestion was put into effect by the Technical Committees.

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13. Technical Committee on Fundamental Human Rights during the Transition

13.1 The Sub-Committee requested the Planning Committee to consider the following issue and to supply guidance:

The Ad-Hoc Committee on Fundamental Human Rights had proposed that consultation take place with various identified experts on Customary Law. Three experts have been proposed. The Ad-Hoc Committee is awaiting a decision on this issue by the Planning Committee. The Ad-Hoc Committee is scheduled to meet next on 18 August 1993. The Technical Committee did not agree with the recommendation but would be bound by the recommendation if it was approved by the Planning Committee. It was noted that the Technical Committee was unable to proceed with its work until it had received a report from the Ad-Hoc Committee. No time frame was set for the meeting of the experts and no terms of reference had been devised for the experts when they consider customary law vis a vis fundamental rights in transition.

13.2 It was agreed that the Planning Committee would take this issue further at the next meeting of the Planning Committee.

14. Future Meetings

It was agreed that the Planning Committee meet at lunch time on 17 August 1993 to finalise all outstanding agenda items.

The meeting adjourned at 16h50.

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8 26 August 1993

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These minutes were ratified at the meeting of the Planning Committee of 1993
and the amended versions signed by the Chairperson of this meeting on 1993.
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CHAIRPERSON

PLANCOMM/MINUTES/MIN1608
9 26 August 1993

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DRAFT RESOLUTION ON WALVIS BAY

PUT TO THE NEGOTIATING COUNCIL BY THE PLANNING COMMITTEE ON

16 AUGUST 1993

This Negotiating Council meeting on 16 August 1993 at the World Trade Centre in Kempton Park:

Noting:

1

The strong views expressed in the Council that Walvis Bay and the off-shore islands should not form part of any demarcation/delimitation of regions for South Africa but that it should be incorporated in Namibia as soon as possible;

The report of the Commission on the demarcation/delimitation of regions dated 31 July 1993 does not contain a recommendation that Walvis Bay and the off-shore islands should be included in any proposed SPR;

The agreement between the Government of the Republic of South Africa and the Republic of Namibia dated 1 November 1992 establishing a joint administration for Walvis Bay and its off-shore islands as an interim arrangement pending an eventual settlement of the question thus creating a sui generis position for Walvis Bay and its off-shore islands;

That the two Governments have been in touch with one another on the issue of the incorporation of Walvis Bay and the off-shore islands into Namibia.

The assurance by the Namibian Government that every possible consideration will be given to the legitimate rights and interests of South African citizens in Walvis Bay in accordance with the Namibian Constitution, the relevant laws of the country as well as the existing bilateral agreements signed between the two Governments.

The concern of the South African Government that there are further important matters including issues such as vested rights, property rights and the transfer of administrative structure without disruption of service to the public that must be resolved between the Governments of South Africa and Namibia;

The indication by the South African Government that it is in principle not opposed to the early incorporation of Walvis Bay and the off-shore islands into Namibia subject to resolving certain important matters identified above;

Endorses:

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The in-principle decision on the incorporation of Walvis Bay and the off-shore islands into Namibia.

PLANCOMM/DOCUMENTS/SAGOV.WB

16 August 1993

Resolves:

1. To request the South African and Namibian Governments to meet on an urgent basis to finalise the outstanding matters in order for incorporation of Walvis Bay and the off-shore islands into Namibia to take place at the earliest opportunity; and
2. To request the South African Government in the meantime to prepare legislation to this end as a matter of urgency.
- 3 That the South African Government informs the Negotiating Council and/or the TEC Subcouncil on Foreign Affairs of progress in respect of the above.

PLANCOMM/DOCUMENTS/SAGOV.WB
16 August 1993

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DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON MONDAY 16 AUGUST 1993 AT 14H00

Chairpersonship - PJ Gordhan assisted by L Landers
Moment of Prayer/Meditation
Welcome and Attendance
Ratification of Agenda

Minutes

- 4.1 Ratification of the minutes of the meeting of:
 - 4.1.1 9 August 1993
 - 4.1.2 10 August 1993
 - 4.1.3 11 August 1993
- 4.2 Matters arising out of the minutes of the meeting of:
 - 4.2.1 9 August 1993
 - 4.2.2 10 August 1993
 - 4.2.3 11 August 1993
- 4.3 Distribution of the minutes of:
 - 4.3.1 4 August 1993
 - 4.3.2 12 August 1993

Reportback from the Planning Committee

Substantive Issues

- 6.1 Eighth Working Draft of the Bill on the TEC and its Sub-Councils
- 6.2 Walvis Bay
- 6.3 Destruction of Identity Documents

Administrative and Financial Matters
Meetings Schedule and Draft Programme

Closure

NEGCOUNS/AGENDA/AGEN1608
August 26, 1993

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

DRAFT MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD AT 15H15 ON TUESDAY 17 AUGUST 1993 AT THE WORLD TRADE CENTRE

PRESENT : B Alexander
C Eglin
PJ Gordhan
RP Meyer
MC Ramaphosa
Z Titus (Chairperson by rotation)
L Landers (current Negotiating Council Chairperson)

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

T Eloff (Administration)
G Hutchings (Minutes)
Moment of Prayer/Meditation

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

Welcome and Attendance

2.1 All members were welcomed.

2.2 Apologies were noted for non-attendance by R Cronje, FT Mdlalose, B - Ngubane (sub-committee), J Slovo and M Webb.

Ratification of the Agenda

The agenda was ratified with the no amendments.

Fundamental Human Rights during the Transition

4.1 The Sub-Committee gave a reportback on the issue of the concerns expressed by the Traditional Leaders with regard to customary law and the Bill of Fundamental Human Rights. The recommendation of the Ad-Hoc Committee

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on this issue was highlighted.

4.2 After discussion it was agreed to accept the recommendation. Therefore, it was agreed that the Seventh Report of the Technical Committee be sent to experts in customary law and be asked to comment briefly, within a week, on the impact that the Draft Interim Bill has as it stands on Customary Law. Three specific aspects would be drawn to their attention.

4.3 It was agreed that the following experts would receive the report:

Dr C Albertyn
Prof C Dhlamini
Prof Mqgeke

Ms T Madonsela
Judge P Olivier

* * * *

4.4 It was agreed that the Administration, assisted by the Sub-Committee, should draft a letter to the experts.
Independent Electoral Commission

5.1 It was noted that the Technical Committee had been requested to prepare a document that would draw the attention of the Negotiating Council to:

- * Clauses that were unchanged and approved of;
- * Clauses that were reformulated for language and technical purposes only;
- * Clauses which had been substantially changed and required discussion;

x; Clauses where the Technical Committee had made alternative proposals to the proposals submitted by the Ad-Hoc Committee.

5.2 It was noted that the issues where the Technical Committee had deviated from the advice of the Ad-Hoc Committee would be highlighted in the report.

5.3 A recommendation by S A Government that the Ad-Hoc Committee meets on a full time basis was not agreed to (see Addendum IV, pl5 of the agenda documentation). It was noted that the Sub-Committee should communicate to the convenor of the Ad-Hoc Committee that it was only to address issues referred to it by the Negotiating Council.

Independent Media Commission and the IBA -

6.1 The Sub-Committee gave a reportback to the meeting' on this Technical Committee.

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6.2 It was noted that the Ad-Hoc Committee had held meetings on the basis of a quorum. The Sub-Committee was in the process of contacting all Ad-Hoc Committee members to ascertain their acceptance and consensus around the recommendations of the Ad-Hoc Committee.

6.3 It was noted that an attempt would still be made to finalise the IMC at the meeting of the Negotiating Council on 18 August 1993.

6.4 It was noted that the IBA Draft Bill would be discussed in the Negotiating Council on Monday 23 August 1993.

Fundamental Human Rights during the Transition

7.1 The Sub-Committee gave a reportback to the meeting on the work of this Technical Committee.

7.2 It was noted that the work of this Technical Committee could only proceed once the advice from the experts on customary law had been received.

7.3 The Sub-Committee was requested to advise the Technical Committee about the decision with regard to the experts on customary law.

7.4 It was agreed that the Ninth Report of the Technical Committee would be sent to the following bodies for comment, within a week:

The Association of Law Societies
The General Council of the Bar
NADEL

The Black Lawyers Association

* %% %

7.5 It was agreed that the extensive comments as submitted by the General Council of the Bar on this issue be submitted to the Technical Committee.

Constitutional Issues

8.1 It was noted that the General Council of the Bar had requested to meet with the Technical Committee on Constitutional Issues on the issue of the administration of justice.

8.2 The request for interaction was approved of. The Sub-Committee was requested to notify the Technical Committee of the Planning Committee is approval of the meeting and assist the Technical Committee in this regard. The Sub-Committee was requested to bear in mind various concerns raised in the meeting.

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Visit to the East Rand

9.1 The Sub-Committee gave a reportback to the meeting on the continued security implications of the proposed visit and recommended that the visit not take place.

9.2 After discussion, and a careful consideration of all the implications, it was agreed to accept the recommendation of the Sub-Committee.

Commission on the Demarcation/Delimitation of Regions

The Sub-Committee was mandated to communicate with F Smit with regard to his letter and attempt to ascertain his availability (see Addendum VI, p20 of the agenda documentation of 17 August 1993).

Commission on National Symbols

The Sub-Committee was requested to process the names with a view to making a recommendation on the composition of the commission on Thursday 19 August 1993.

Future Meetings

It was noted that the Planning Committee would next meet on Thursday 19 August 1993 at a time still to be determined.

Closure

The meeting was closed at 16h10.

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

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CHAIRPERSON

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

DRAFT MINUTES OF THE MEETING OF THE PLANNING COMMITTEE HELD
AT 09H30 ON THURSDAY 19 AUGUST 1993 AT THE WORLD TRADE CENTRE

PRESENT" - ; B Alexander
R Cronje
C Eglin
PJ Gordhan
C Kruger
RP Meyer
MC Ramaphosa
Z Titus (Chairperson by rotation)
M Webb

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

T Eloff (Administration)
G Hutchings (Minutes)
1. Moment of Prayer/Meditation

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

2. Welcome and Attendance
201 All members were welcomed.

2.2 Apologies were noted for non-attendance by FT Mdlalose, B Ngubane (sub-
committee), SN Sigcau and J Slovo.

2.3 Apologies for late arrival were noted by R Meyer.

4. Ratification of Agenda

The agenda was ratified with no amendments.

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- Substantive Issues

5.1 Commission the Demarcation/Delimitation of Regions:

5.1.1 The Sub-Committee requested an opportunity to meet with F Smit and then report back to the Planning Committee. It was suggested that if F Smit was not available full-time the possibility of a co-ordinator should be considered.

5.1.2 It was noted that B Nomvete was abroad and was due to return on 5 September 1993.

5.1.3 It was suggested that at this stage the setting of time frames, although essential, could not be achieved.

5.1.4 It was agreed that the Technical Support Staff could commence work, under the supervision of the Sub-Committee, with the available material.

5.1.5 It was noted that with regard to Item 1 of the Resolution on the Way Forward, no inputs had been received except the issues raised in the meeting of the Negotiating Council when the Report of the Commission was debated.

5.2 Draft Resolution to the Negotiating Council submitted by the Labour Party:

5.2.1 Discussion proceeded around the proposed resolution and the envisaged role of the international community.

5.2.2 It was agreed that the Sub-Committee should give this issue due consideration and submit recommendations to the Planning Committee, taking into account the debate in the Planning Committee. The following issues should be addressed by the Sub-Committee in its

deliberations:

i To demarcate and identify where a role has emerged for the international community from the debates in the Negotiating Council;

" To identify where members of the international community

were already involved in South Africa, how long they have been in the country, on what basis are they presented, what they have actually been doing, etc. (eg. in The National Peace Secretariat;)

Â» To investigate the feasibility of putting the international community on "terms";

i The international community should be clearly identified in this

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regard.

5.2.3 Also raised was the question of the administration, the infrastructure, the offices and the composition of the various structures to be established.

The possibility of the establishment of an ad-hoc committee of the Planning Committee to deal with this issue, assisted by the Sub-Committee, was raised.

Proposed circular to all Technical Committees:

5.3.1 The Sub-Committee recommended that this circular should not be sent to the Technical Committees but referred to the Sub-Committee for its attention.

This recommendation was agreed to. It was, however, pointed out that there is a need to ensure that the Technical Committees bring to the attention of the Planning Committee any additional legislation which may have to be drafted in order to ensure that timeous attention is given to it. It was further noted that the Technical Committee on Constitutional Issues had already identified the need for additional legislation.

Standing Committee of Parliament and draft legislation on the IEC, TEC, IMC and the IBA:

The Sub-Committee stated that this issue was still under consideration. Commission on National Symbols:

5.5.1 The Sub-Committee gave a reportback to the meeting on this issue.

5.5.2 It was agreed not to finalise the issue of the recommended composition of the Commission immediately, but that the Sub-Committee would submit recommendations to the Planning Committee on Monday 23 August 1993. :

It should be stated in the Negotiating Council that the deadline for submissions with regard to nominations for the Commission had been extended until Monday 23 August 1993 at 12h00.

It was noted that copies of submissions already received should be forwarded to Planning Committee members for information.

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Fundamental Human Rights during the Transition:

5.6.1 It was noted that the Eighth Report had been discussed on Thursday 12 August 1993.

5.6.2 It was noted that at this point there was no report from the Ad-Hoc Committee. The next report from the Ad-Hoc Committee would be submitted once the meeting with the experts on customary law had taken place and their inputs had been received by the Ad-Hoc Committee. It was agreed that the Sub-Committee should give the Ad-Hoc Committee a deadline for the completion of its work.

The Planning Committee was advised by the Sub-Committee that a letter to the experts on customary law was being drafted and would be submitted to the Traditional Leaders for their approval, to ensure that the letter adequately reflected their concerns, before it was sent out.

The Sub-Committee raised a further issue relating to the work of the Technical Committee. They advised that in accordance with the mandate given to the Technical Committee by the Negotiating Council, the said Technical Committee had produced two drafts relating to the chapter dealing with the Administration of Justice. It was noted that the chapter would form part of the Constitution for the transition period.

It was resolved that the two drafts be referred to the Technical Committee on Constitutional Issues which should treat the said drafts as recommendations to it. The Technical Committee on Constitutional Issues would be responsible for the formulation of the final chapter for approval by the Negotiating Council.

Paragraph 4 (b) of the Seventh Report (see Addendum D, p15 of the agenda documentation) refers. After discussion it was agreed that since this issue is tied up with the implementation of the first constitution it can only be dealt with after the Negotiating Council had approved of the first Constitution.

Repeal or Amendment of Discriminatory Legislation:

5.7.1 A report was presented by the Sub-Committee (see Addendum A).

5.7.2 Discussion proceeded around the recommendations. After the discussion the following was noted:

* Item 4 (i) of the recommendations was agreed to. Once the

"code" had been drafted it would be submitted to the Negotiating Council for amendment and/or approval. The Sub-

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Committee and the Technical Committee were given the latitude to bring in any experts that they may need in this regard but to keep the Planning Committee informed. It was stated that this item refers essentially to two different codes.

" Item 4 (ii) of the recommendations was agreed to.

as It was agreed that Item 4 (iii) and 4 (iv) should be linked. It was suggested that an overall co-ordinator may be needed and furthermore, that there may be a need to get some lawyers involved on a full-time basis to attend to the issues. The Sub-Committee requested the opportunity to come back with recommendations on this issue to the Planning Committee. Depending on the proposals of the Sub-Committee, the future of the Technical Committee on the Repeal or Amendment of Discriminatory Legislation should be considered.

- It was noted that only the procedure for identification was agreed upon, and not the implementation

Independent Electoral Commission:

5.8.1 It was noted that the Ad-Hoc Committee and the Technical Committee were still working on the issues referred to them.

5.8.2 It was noted that the Goldstone Commission Report on the curbing of violence and intimidation, before, during and after the forthcoming elections had been referred to the Technical Committee. The Administration was requested to make copies of the report available to Planning Committee members for information.

5.8.3 At a later stage of the meeting, the Sub-Committee gave a reportback to the Planning Committee on the current status of the meeting between the Ad-Hoc Committee and the Technical Committee. It was noted that the issues were still far from being resolved.

5.8.4 After discussion it was agreed to adjourn the meeting to allow consultation with principals on the issues. It was suggested that the meeting of the Negotiating Council should be postponed as there would be no report for it to debate.

Independent Media Commission and IBA:

5.9.1 It was noted that no political issues had been referred back to the Ad Committee and a final report may be submitted by the Technical

Committee on 'Wednesday or Thursday of the week commencing 23 August 1993.

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5.9.2 Discussion proceeded around a note from the Technical Committee to - the Planning Committee (see Addendum B).

5.9.3 After discussion it was agreed that this issue could only be dealt with by the Negotiating Council and was closely connected to constitutional issues and the future of the TBVC States.

5.9.4 It was noted that there was no report available from the Ad-Hoc Committee.

5.10 Violence:

5.10.1 Discussion proceeded around the issues referred to the Planning Committee by the Negotiating Council (see Addendum E, p16 of the agenda documentation).

5.10.2 It was agreed that the recommendation with regard to the SABC should not be taken any further.

5.10.3 It was agreed that the Communications Committee be requested to submit recommendations to the Planning Committee about what public broadcasters could do with regard to creating awareness of the negotiating process. These recommendations could then be forwarded to the public broadcasters.

5.11 TEC and its Sub-Councils:

3.11.1 Discussion proceeded around clause 23 (2) of the Eighth Working Draft of the Technical Committee which was referred to the Planning Committee for its attention.

5.11.2 No agreement could be reached on what percentage should be put forward as a recommendation to the Negotiating Council. It was, therefore, agreed to defer discussion on this issue, that informal discussions should be held and to deal with this issue on Monday 23 August 1993.

S153 It was noted that R Meyer would give a report back to the Planning Committee on this issue on Monday 23 August 1993.

5.11.4 It was noted that two additional items had been referred to the Planning Committee for its attention and would appear on the agenda on Monday 23 August 1993.

5.12 Joint Peace Keeping Force:

3.12:1 The importance of attending to the preparatory work relating

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to the establishment of the Joint Peace Keeping Force at the earliest possible opportunity was raised.

5.12.2 In this regard, it was recommended that a meeting of all the technical experts and other interested parties who would be participating in this force, should be held.

3423 Certain reservations were noted in this regard and it was decided that the Sub-Committee considers the issue and submits a report to the Planning Committee. It was agreed that this issue appears on the agenda of the Planning Committee on Monday 23 August 1993.

5.13 The Ad-Hoc Committee on the TBVC States:

C Eglin, as convenor of the Ad-Hoc Committee, gave a reportback. Due to the problems experienced by the Technical Committee and the Ad-Hoc Committee on the Independent Electoral Commission and the need for the Planning Committee to adjourn, no discussion proceeded on this issue.

The meeting adjourned at 12h00.

The meeting reconvened at 14h05.

5.14 Independent Electoral Commission:

5.14.1 A reportback was given on the current status of the meeting between the Ad-Hoc Committee and the Technical Committee on the Independent Electoral Commission.

5.14.2 It was noted that the two committees had requested the opportunity to draft the Bill over the weekend. The Bill would be ready by Monday 23 August 1993 for distribution and for discussion in the Negotiating Council on Tuesday 24 August 1993.

5.14.3 It was agreed at this point to convene the meeting of the Negotiating Council to report back on the status of the meeting between the Ad-Hoc Committee and the Technical Committee on the Independent Electoral Commission. It was agreed to recommend to the Negotiating Council that it should not proceed with its agenda as the report to be discussed was not yet ready.

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The meeting adjourned at 14h25. It was agreed that the Planning Committee should reconvene after the Negotiating Council meeting adjourned.

The meeting reconvened at 14h40.

5.15 Constitutional Issues:

3.15.1 Discussion and a number of specific proposals with regard to how the existing divergent views on the Constitution-Making Process could be addressed were put forward by members of the Planning Committee.

5.15.2 It was agreed that a mechanism needs to be found in order to address this. One suggested mechanism did emerge in the form of bilateral and/or multilateral meetings.

5:15.3 It was also noted that the Planning Committee may have to review the whole process in the light of the different approaches which have emerged with regard to the Constitution-Making Process

5.15.4 It was agreed to only convene the Planning Committee meeting of 23 August 1993 only at 10h30 to allow time for bilateral discussions beforehand.

16. Closure

The meeting adjourned at 15h40.

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

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REPORT OF SUB-COMMITTEE TO THE PLANNING COMMITTEE ON:
THE "HIGHER CODE" PROPOSED BY THE TECHNICAL COMMITTEE
ON THE REPEAL OF DISCRIMINATORY LEGISLATION, ON THE
IMPLEMENTATION OF A BILL OF RIGHTS AT AN EARLIER DATE, ON
ENFORCEMENT MECHANISMS AND RELATED ISSUES

1. The Negotiating Council referred a number of issues relating to the work of the Technical Committee on the Repeal of Discriminatory Legislation to the Planning Committee for recommendations - See the attached document.

2. The Planning Committee instructed the Sub-Committee too discuss these issues with the Technical Committees involved

3. The Sub-Committee had various discussions with Technical Committees and this culminated in a joint discussion with the full committees on:

. the Repeal of Discriminatory Legislation,

- o FHR,
- B Constitutional Issues, and
- o the IEC.

4, Draft Minutes of the discussions are attached. The recommendations

emanating from the meeting are as follows:

s The Technical Committee on the Independent Election Commission will draft a "code" dealing with the freedom of the individual to participate in the elections (as opposed to a code for political parties). Towards this end they will receive an input from the Technical Committee on Fundamental Human Rights.

ii. The Technical Committee on the Independent Election Commission will continue its work on developing the adjudication functions of the Commission which will include examination of the need for a tribunal to adjudicate a code as proposed.

iii. Participating parties should be called upon to repeal legislation offending against free political participation.

iv. A recommendation that a commission or other body be charged with the identifying of legislation against free political participation on an ongoing basis, and that the identified legislation could therefore be repealed or amended by way of proclamation, was agreed upon but not supported by all members.

The Sub-Committee supports the recommendations. As far as

recommendation (v) is concerned, the Independent Election Commission could very well be the body identifying offending legislation.

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NOTE FROM THE MEDIA TECHNICAL COMMITTEE TO PLANNING
COMMITTEE

We believe that in order for the IBA and IMC legislation to be effective, it is necessary for the Authority and the Commission respectively to have jurisdiction over all broadcasters who

broadcast in South Africa, including the TBVC States.

We accordingly request the Planning Committee to approach the representatives of the TBVC States with a view to discussing proposals as to how this can best be achieved.

We wish to point out that this matter is extremely urgent, since both Bills need to be finalised

by early next week.

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SUBMISSION TO CONSTITUTIONAL COMMITTEE, TEC COMMITTEE AND

NEGOTIATING COUNCIL

JOINT POSITION PAPER CONCERNING ROLE OF TRADITIONAL LEADERS

INTRODUCTION

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By

Traditional leaders and their Councils as established by custom and usage is a cornerstone of any sound administration.

We have pointed out on numerous occasions that a traditional ruler was and is still, contrary to popular belief, the most democratic institution. It forms a firm foundation for stability in all traditional communities.

The institution has survived notwithstanding the fact that it was brutally attacked by the colonial and apartheid systems of governments.

The Institution, status and the role of traditional leaders shall be recognised and protected in the constitution. (Vide the principles adopted by the Negotiating Forum on 2nd July, as well as Clause XII of Schedule 7 of the Draft Interim Constitution).

Clause XVI of Schedule 7 to the Draft Interim Constitution provides that at each level of government there shall be democratic representation and provision is

made that the principle shall not derogate from the provisions of principle XII.

The principles adopted are binding to the Constitutional Assembly and are justiciable.

We are accordingly of the view that provision should be made for effective participation of traditional leaders in all levels of government.

2. ROLE OF TRADITIONAL LEADERS DURING THE TRANSITION PHASE.

2.1 TEC LEVEL

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2.1.4

The role of traditional leaders in this critical phase is of paramount importance. Let it be known that the overwhelming majority of the toiling masses owes their allegiances to their traditional leaders. However, be that as it may, the colonial rule and system of apartheid alienated us from

the people thereby weakening the power of the people.

The meaningful and effective role of traditional leaders is therefore a MUST during this phase. Our past experience has taught us and the people that the only way in which this valuable institution could be

protected is by putting traditional leaders above party politics.

We are mindful of the fact that since we are members of the Negotiating Council we will be part of TEC which will be Multi-Party in character.

However, our role is so critical such that it will be meaningful only if a Sub-Council on the role Traditional leadership is constituted.

The powers of this sub-council should inter alia provide for:-

a) the conditions of service of traditional leaders;

b) monitor and recommend on legislative and executive measures either existing or proposed, which may affect traditional leader's powers during the transition.

c) Ensure free political activities in areas controlled by traditional leaders.

d) Advise other sub-councils on matters of material concern to their communities.

e) Ensure that traditional leaders are not under the control of existing administrations.

2.1.5 We strongly believe that if such Council is established traditional leaders will be saved from the yoke of apartheid system and all their areas will be available to all political parties. Needless, for us to stress the need for creating and promoting a climate conducive to free political participation as well as to eradicate any impediments to legitimate political activities.

TRANSITIONAL CONSTITUTION

We firmly believe that a transitional Constitution should provide for an effective role of traditional leaders. This is in accordance with our view expressed under TEC above as well as the fact that the Negotiating Forum has adopted principles endorsing a role of traditional leaders at all levels. We visualise our participation as stated below in all the

tiers of government.

THE ROLE AT A LOCAL GOVERNMENT LEVEL.

4.1 The Negotiating Forum has adopted as one of its justiciable principles which will be binding on the Constitutional Assembly, a principle to the effect that at each level of government there shall be democratic representation. However, the Council having taken into account the fact that in terms of our culture a traditional leader is born, it adopted a proviso to the effect that nothing contained in the principle will derogate from the role of traditional leaders according to indigenous law.

4.2 In accordance with the aforementioned principle we are of the view that traditional authorities should be provided for both in the interim and the final

constitution.

4.3 We are of the view that traditional authorities differ from local authorities in proclaimed towns, inter alia, in the following material respects:

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Traditional authorities are much more social systems than local government institutions. Their primary function is, therefore, to regulate and control relationships and social behaviour within a traditional community. Local authorities are mainly focusing on the rendering of services.

The authority of traditional authorities vests in Traditional leaders-in-council. This means that a traditional leader merely conveys or pronounces the wishes of the people.

The position of a traditional leader is hereditary, while in local authorities the position of the mayor and the duration of his office is linked to regular elections.

The authority of the Traditional leaders is less limited than that of a mayor. His authority is derived from tradition and is exercised in consultation with the community.

Traditional authorities are in most cases not legal personae while local authorities are legal entities.

There is also no real division between the political, administrative and judicial authority (trias politica) in traditional authorities as in the case with local authorities within proclaimed towns. The political and judicial authority is traditionally the responsibility of the indigenous leaders in

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accordance with traditional norms and values. Their executive function and their own financial resources, however, has never really been developed to its fullest potential. This was done deliberately to weaken the power of traditional leaders and the people.

4.3.7 In traditional authorities decisions are based on consensus.

We are, in accordance with the principle of democracy which as we have pointed out is not new to our system of democracy, advocating for an establishment of traditional authorities which should be composed of Traditional leaders and democratically elected Councils with powers to administer the affairs of the people within their area of jurisdiction, This inter alia, should entail:-

4.4.1 A Traditional authority shall, subject to the provisions of any other law;

4.4.1.1

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4.4.1.3

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generally administer the affairs of the people within its area;

assist, support and guide its head in the exercise or performance of the powers, authorities and functions conferred upon him by tradition and under any law;
promote the interests and the advancement and well-being of the residents of, and the development and improvement of the land in its area;

consider, and make recommendations to the competent authority in connection with applications for:-

i) the establishment of and, provision of buildings for or accessories to Government schools;

i) old age and blind person's pensions and disability

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grants;

iii) arable and other allotments;

iv) licences;

exercise or perform the powers, authorities and functions assigned to the authority from time to time by the law in such matters as, in his opinion, fall within the sphere of

administration, including any of the following matters:
land administration;

hygiene, sanitation and health services generally including the establishment, management and maintenance of clinics

or other similar institutions and cemeteries;

soil conservation including the development, improvement and maintenance of water supplies, the control of grazing and grass-burning, the eradication of weeds, the protection of trees and the co-ordination of soil conservation

measures;

the prevention of fauna and flora;

The improvement of livestock and animal husbandry generally and the establishment of co-operative dairy and

other schemes;

the organisation of farmers's associations, agricultural

shows, demonstrations and competitions;

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4.4.1.12 other developments of a parochial nature;

4.1.1.13 the prevention of cruelty to animals;

4.1.1.14 the destruction of vermin;

4.1.11.15 impose traditional customary levies;

We are of the view that traditional Councils should be democratically elected to represent people in various wards within the area of jurisdiction of a traditional leader.

ESTABLISHMENT OF DISTRICT COUNCILS

4.6.1 A District Council shall be established in respect of all magisterial districts under each region.

4.6.2 Composition :

The District Council shall be composed of directly and indirectly elected councillors from each traditional authority, commercial farm and where applicable from Councillors elected in each village. Traditional leaders from each Traditional Authority shall be ex officio members of the

District Council.

4.6.3 Chairpersonship :

The District Council shall be chaired by District Administrator/District

Commissioner whose office shall be on office in the public service.

4.6.4 Powers :

The Council shall be responsible for co-ordination of services, the drawing up of budgets and development planning within its area of jurisdiction.

4.7

KINGS COUNCIL

4.7.1

Introduction 47501

A King as a traditional leader always performs his duties on the advice of the people. What we have stated above

apply mutatis mutandis in respect of the role of our kings.

We may mention that our Kings were either deposed or demoted to an inferior status by the colonial and apartheid

regimes. Our kings are referred to as Paramount Chiefs and Amakhosi/Marena/Dikhosi, etc, are referred to as chiefs. This was done by the colonial and apartheid system

in order to weaken the power of the people.

The powers and area of jurisdiction of our kings (as well as all other traditional leaders) is original and any legislation which seeks to take away such powers should be restrictively interpreted, as it offends a well established system of administration. Therefore traditional Authorities as stated under paragraph 4.3 above as well as local authorities (urban) are structures under the jurisdiction of

a King.

We believe that in accordance with the principle of democracy, Kings Councils should be elected to administer

the affairs of the kingdom.

Establishment :

A Kings Council shall, where applicable, be established in respect of all districts within the jurisdiction of a King.

4.7.3 Composition :

This Council shall be chaired by a King or his deputy and shall be composed of Councillors elected from District Councils and traditional leaders who are chairpersons of traditional authorities.

The Council may also appoint persons who are experts or possess

sufficient experience in administration and community affairs as members.

4.7.4 Powers of the Kings Council :

4.7.4.1 The powers of the Kings Council or by whatever new name

it may be referred to should include the following:

A King or any other traditional leader:

a) enjoy the status, rights and privileges and be subject to the obligations and duties conferred or imposed upon his office by the recognized customs or usages

of the people;

b) be entitled, in the due fulfilment of his functions, to the loyalty, respect, support and obedience of every

resident of the area for which he has jurisdiction.

c) in co-operation with the other local and regional governments and subject to such lawful orders or instructions as may, from time to time, be given to him by or through any competent representative of the Government, carry on the administration of his

area;

d) maintain law and order and report to the

Government, without delay, any matter of import or concern, including any condition of unrest or

dissatisfaction;

exercise within his area, in relation to any resident:-

the powers of arrest conferred upon him, in

his capacity as a peace officer.

the powers of search and seizure, relating to

stolen stock, liquor, habit-forming drugs,

arms and ammunition and explosives.

Ensure the protection of life, persons, and property and the safety of bona fide travellers within his area, and report forthwith to the competent

authority:-

the death of any person from violence or

other unnatural cause;

the outbreak of any contagious or infectious

disease;

any pretended witchcraft or divination;

any misuse of government property;

any irregular receipt or use of public monies

if a state of lawlessness exists in his area or, in his opinion, cannot otherwise be prevented, order that all or any of the following shall be prohibited for a period not exceeding fourteen (14) days at any one

time;

the gathering of men in groups;

the brewing of beer or the holding of any feast within such area as he shall specify;

the carrying by any person of a shield or more than one ordinary stick;

the shouting of war cries or the blowing of bugles or whistles;

make known to the residents of his area the requirements of any new law;

ensure compliance with all laws and the orders and instructions of any competent authority;

prevent cruelty to animals;

detain and, when so required by law, impound any livestock depastured unlawfully or found straying within, or introduced illegally or under suspicious circumstances into, his area and report the fact to

the competent authority; and

generally seek to promote the interests of the people of the kingdom and actively support, and himself initiate, measures for the advancement of the

people;

ROLE AT A REGIONAL LEVEL

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We would like to reiterate that it is our well considered view that traditional leaders are a cornerstone of any stable administration based on the will of people in Africa (our emphasis).

The history and our experience has taught us that Political parties and governments may come and go but our institution and our role exist forever.

In line with our view that traditional leaders should play a meaningful role in the nation building we are strongly of the view that a House composed of traditional leaders should be provided for at a regional level. Traditional leaders should elect amongst themselves the required numbers of the traditional leaders they would like to compose the House. We are of the view the Kings or their representatives

should have an ex officio seat in the House.

Structure :

The composition of the House, its powers and functions should mutatis mutandis

be the same as those stated below in respect of the House at a national level.

AT A NATIONAL LEVEL

INTRODUCTION

6.1

Before the Colonialists and Imperialists conquered and took over occupation of our land, South African, traditional leaders and their people were rulers of the land in accordance with tradition and culture. We remember those days with pride

and more often than not we refer to them as the "good old days".

We therefore believe that strictly speaking a new South Africa should be a united kingdom.

We further believe that our culture is not static and as such should keep pace with modern development.

We accordingly concede that the era of one party rule in Africa is gone and we have reached a phase of Multi-Party democracy.

However, as we have pointed out above, in our experience no system is not changing.

It is well-nigh irrefutable that the concept of democracy which was adopted by the governments of the Western civilized countries is fairly new in our continent. It is therefore our duty as successors of traditional rulers of this country to oversee this process.

We have already stated that the overwhelming majority of the people owe their allegiance to the traditional leaders and regard them as the only personification of political authority and there is a potential danger that they may not readily accept the authority without the involvement of traditional leaders.

We are strongly of the view that to deny traditional leaders a position at the centre would be a serious affront. Traditional leaders still possess sufficient influence in traditional communities to hinder implementation of any government policy if they choose to do so.

We are therefore strongly of the opinion that there should be a House of traditional leaders at a National level as well - with the necessary powers which should be negotiated and agreed to at the Negotiating Forum.

6.10 What we have stated under paragraph 5 above concerning representation of traditional leaders should mutatis mutandis apply.

y & HISTORIC BACKGROUND

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SOUTH AFRICA

Before the advent of Colonial rule in this country the Traditional Leaders were rulers of their subjects. They were vested with all powers of State viz: Legislative, Administrative and Judicial Powers. The rule of Traditional Leaders, contrary to the belief of some people, was the most democratic form of government. The Traditional Leader was a Chief-in-Council. The Communities participated freely at all traditional meetings. These principles are firmly entrenched in our communities and that is why the institution of Traditional Leaders has survived colonial rule. We agree with Father Tiber that "men may come and men may go but I go on forever".

Our history proves conclusively that Traditional leaders fought with their people in defending their kingdoms. King Hintsa was brutally murdered by the British colonialist, Richard Southey. Maqoma died on Robben Island,

Kings Langalibelele, Cetywayo, Dinizulu, Sekhukhuni, Faku, Moshoeshe, Ngungunyana, Ramabulana, Sekonyela, Queen Manthatisi, and many others fought against Colonialism, oppression and the exploitation of the people and their spirits constitute firm foundation for the liberation struggle.

We therefore emphasise the point that Traditional Leaders and their subjects were rulers of this country and cannot be left out in any level of government.

OBSERVATION FROM AFRICAN STATES

7.2.1 BOTSWANA

The all-party talks were free from conflict on two questions which

presented serious problems in one or both of the other High Commissions Territories – the position of the Chiefs and their tribal authority and safeguards for white interests. The Chiefs were offered a House of Chiefs separate from the Unicameral Legislative Assembly. The establishment of the House of Chiefs in Botswana was as a result of the Chiefs participation in the Constitution Making Process of that country. Proctor rightly opines that to have denied the Chiefs a position at the centre would have been a serious affront.

It was also realised that tribesmen still looked to the Chiefs for leadership and often regarded them as the only personification of political authority.

NAMIBIA

As far back as 1958 opposition to S.A. rule was led by Chief Kutako and the Herero Chiefs Council. The Traditional Leaders were instrumental in the formation of SWAPO. They also petitioned the United Nations. We believe that without the support of traditional authorities SWAPO would not have been able to win the freedom for Namibian people.

SWAZILAND AND LESOTHO

These Countries are still ruled by Kings as the Kings and their subjects successfully defended their territories.

"Tinkundla" which is composed of traditional leaders is also provided in the Constitution.

GHANA

In GHANA the first involvement was in 1949 in the Coussey Committee on Constitutional reform which had strong representation from Traditional elements. The National liberation movement, among other things, fought for the protection of traditional interests. As a result of its input, a House

of Chiefs was established on independence.

The promulgation of the new Ghananian Constitution left no one in doubt about the unique position of chiefs. "The institution of chieftaincy together with its traditional councils as established by Customary Law and usage is hereby guaranteed".

7.2.5 ZAMBIA

If there is any lesson to be learnt from comrade K.Kaunda, particularly in the reconstruction and constitutional development of Zambia, it is that the traditional leaders were never elbowed out, as it seems likely to happen here, nor put in a lumber room.

"Another feature of our present constitution which will be adopted in the Independence Constitution is the House of Chiefs. My view and support for our chiefs are well known, and I re-affirm that it will be the intention of my Government to uphold the position of Chiefs in our country and to consult them and seek their advise on all matters affecting their people and themselves". Comrade K. Kaunda addressing a special meeting of chiefs once said;

"The mobilization of the efforts of the people will be a task for which all chiefs are fitted, by reason of the respect for a chieftainship which you have inherited from your predecessors. You can act as a link between the old and the new in Zambia which will enable the country to go ahead as one nation, as one people".

COMPOSITION

(1) The House shall be composed of ten members from each region, such members should be elected by members of the House of Traditional Leaders of such region where applicable within 10 days of the commencement of the first session after

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its election.

The House of Traditional Leaders in each region shall constitute an electoral collage for the purposes of sub-section (1).

Any member of the House of Traditional Leaders at regional level elected in terms of sub-section (1) shall vacate his or her seat in the House of Traditional Leaders at such regional level.

Traditional leaders who are Kings on the date of commencement of this Act shall be ex officio members of the house.

CHAIRPERSON OF HOUSE OF TRADITIONAL LEADERS

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At its first meeting, and before proceeding to despatch any other business, the newly elected House of Traditional Leaders, with the Chief Justice or a judge designated by him or her acting as chairperson, shall elect one of its members to be the chairperson of the House, who shall be vested with all powers, duties and functions assigned to him or her in terms of the Constitution and by the rules and orders of the House.

The chairperson shall preside at the meetings of the House and at joint sessions which may be deemed necessary.

In the absence of the chairperson, a person shall be elected by traditional leaders from amongst their numbers to preside at their meetings during such absence.

The chairperson shall vacate his or her office if he or she ceases to be a member of the House, may be removed from office by a resolution of the House, and may resign by lodging his or her resignation in writing with the secretary of the House.

If the office of the chairperson of the House becomes vacant, the House shall in like manner fill the vacancy.

The Chairperson of the House or any person presiding at a meeting of the House shall not have a deliberative vote, but shall have and exercise a casting vote in the case of equality of votes.

SECRETARY TO HOUSE

(1) There shall be a Secretary to the House of Traditional Leaders whose office shall be an office in the public service.

OATH OF ALLEGIANCE

(1) Every member of the House shall, before taking his or her seat therein, take and subscribe before the House of Traditional Leaders the oath of allegiance set out below viz.

(Hold the Bible by his right hand)

do swear that I will be faithful and bear true allegiance to the

(Peoples Republic of S A) and that I will preserve, protect and defend the Constitution of the Republic as by law established.

SO HELP ME GOD

SIGNED

12. TENURE OF OFFICE OF MEMBERS

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The term of office for Members of the House shall be five (5) years.

A member of the House shall vacate his or her seat in the House :-

(a) On dissolution of the House;

(b) If he ceases to be a traditional leader or member of the House of

Traditional Leaders of a Region;

(c) Resigns his or her seat in writing;

(d) Absents himself voluntarily from the House for 10 consecutive sitting days, without having obtained the leave of the House on grounds specified

in the rules and standing orders;

(e) Become a member of the National Assembly, or Legislature or Senate;

(f) Become permanently incapacitated or ill as to be unable to perform his or her duties.

If a seat of a member is vacated in terms of subsection (1), the Regional House of Traditional Leaders which nominated him shall nominate a person to fill the vacancy.

13. RULES OF PROCEDURE

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Subject to the provision of this constitution, the House may, subject to the approval of the President, make rules regulating its own procedure and in particular, and without prejudice to the generality of the foregoing power, make rules for all or any of the following matters -

(a) The appointment or election and tenure of office of the Chairman of the House;

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The time and place at which the House shall sit;

The manner in which the views of the House shall be recorded and, if necessary, expressed to a minister, the National Assembly, Senate or any other person or body;

The regulation and orderly conduct of the proceedings of the House;

(e) The manner in which the elected members of the House shall be elected.

PRIVILEGES AND IMMUNITIES OF THE MEMBERS

(1)

Notwithstanding the provisions of any other law, no member of the House shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of any matter or thing which he or she has brought by petition, bill, motion or otherwise or may have said before or in any meetings of the House or any Committee thereof.

Provisions for the other privileges and immunities of members of the House shall be made by writ of Parliament.

POWERS OF THE HOUSE

We propose that Section 58 (4) should be inserted to the Draft Interim Constitution and should read :

4)

The National Assembly or Senate shall not proceed upon any Bill (including any amendment to a Bill) that would, if enacted alter any of the provisions of this Constitution or affect -

(@) the designation, recognition, removal of the powers of traditional leaders or their councillors;

the organisation, powers or administration of indigenous/customary courts;
indigenous law, or the ascertainment or recording of customary law, or
traditional or indigenous organisation or communal property, unless

i) a copy of the Bill has been referred to the House of Traditional
Leaders after it has been introduced in the National Assembly or

Senate; and

(i) a period of 30 days has elapsed from the date when the copy of the
Bill was referred to the House of Traditional Leaders.

FUNCTION OF THE HOUSE

(1) The House shall consider the copy of any Bill which has been referred to it under
the provisions of (Section 58[4]) of this Constitution and the House should be

entitled to submit resolutions thereon in the National Assembly or Senate.

Any resolution which has been submitted to the National Assembly in accordance
with the last foregoing subsection shall forthwith be laid before the Assembly by
the chairman of the House, or any official of the National Assembly.

Any minister who is responsible for a Bill such as is referred to in subsection (1)
of this section, or his representative, may attend the proceedings of the House
when the Bill is being considered, provided that should the members of the House
require the minister to attend he or she will be obliged to attend the proceedings
of the House.

Any minister shall consult the House in respect of any matter on which he desires
to obtain the opinion of the House, and for that purpose the minister or his

representative may attend the proceedings of the House.

5) The House shall be entitled to discuss any matter within the executive legislative authority of the [Peoples Republic of S A] of which it considers it is desirable to take cognisance in the interests of indigenous or traditional communities) it represents and to make representations thereon to the President, or to send messages thereon to the National Assembly or Senate. Nothing herein contained shall preclude the President from soliciting the views of the House in policy

decisions of the government.

6) A person attending the proceedings of the House by virtue of the provisions of sub-section (3) or (4) of this section shall be entitled to take part in the proceedings of the House relating to the matter in respect of which he attends as if he was a member of the House, provided that he or she shall not be entitled to

vote in the House.

CONCLUSION

It must be remembered that we are of Africa, we are in Africa and the government we should produce must be of African orientation. Our future political dispensation shall

have failed if it does not have overtones of who we are and where we come from.

Lastly our history does not start from 1910 or 1652, in fact it goes beyond that. The truth is that the people who were robbed of their land and authority to rule were non other than the TRADITIONAL LEADERS.

DATED IN KEMPTON PARK WORLD TRADE CENTRE ON
THIS THE 13 AUGUST 1993.

CAPE TRADITIONAL LEADERS

OFS TRADITIONAL LEADERS

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TRANSVAAL TRADITIONAL LEADERS

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AFRICAN INDUSTRIAL DEVELOPMENT

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M Reg. No. 92/06579/08

101 Phidias Centre

89 Van Riebeeck Avenue

P.O. Box 1280, EDENVALE 1610

Johannesburg, South Africa

Tel: 2711 609-4053

30 August 1993 Fax: 2711 452-6403

The Chairman

Multi-Party Negotiating Council
World Trade Centre

KEMPTON PARK

JOHANNESBURG

Dear Sir

I seek your permission and approval to deliver in the Council Chambers the attached memorandum on behalf of approximately 400 visiting American business leaders who will be in South Africa from the 6 to 11 September, 1993 for the Made In USA Expo.

The American business leaders are coming to look at investment and trading opportunities in South Africa and we believe that this is the largest gathering of American business leaders in the history of Africa.

If permission is granted, we would like the Council to go into recess for 5 minutes to receive our memorandum. We would like to deliver this memo on Friday, 10 September, 1993 at 12:00.

I would like to assure you that the delivery of the memorandum will be peaceful and dignified and no disturbance of whatever nature will occur.

We look forward to your most favourable response at your earliest convenience.

Yours faithfully

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TINY NAIDOO REDDY MAMPANE
EXECUTIVE CHAIRMAN : AFCOR NATIONAL DIRECTOR

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Directors: Dr D.P. Matipwili (President), Tiny Naidoo (Executive Chairman), R. Mampane, S. Ramatlo, G. Mamphwanya, T. Maleka, A.Lumkwana, M. Cargenie.

SPoever~ D

Hullweg 51
FERRYVALE
NIGEL

1490

24 Augustus 1993

Dre: T iEloff

Hoof van Administrasie
Veelpartyonderhandelingsproses
WÃ@reldhandelsentrum

"Posbus 307

ISANDO

1600

Geagte Dr Eloff
BESOEK AAN WERELDHANDELSENTRUM

1. Hiermee word aansoek gedoen vir die besoek van 'n interkerklike afvaardiging van Christene aan die WÃ@reldhandelsentrum met die uitsluitlike doel om as 'n stap van gehoorsaamheid aan God aan die onderhandelaars 'n voorlegging te doen en om aan die hoofde van die politieke partye elkeen 'n Bybel beskikbaar te stel.

2. Die Bybels sal beskikbaar gestel word, die ontvangs daarvan sal op n vrywillige basis geskied. Die voorlegging sal gedoen word deur drie persone en 'n halfuur sal voldoende wees. Die datum van die besoek sal ons in u hande laat ten einde so min moontlik ontwrigting vir u te veroorsaak maar ook ten einde ons besoek so effektief moontlik te maak.

Ten einde die Bybels aan spesifieke individue toe te ken sal ek u vriendelik versoek om aan my so 'n naamlys beskikbaar te stel.

3. By voorbaat dankie vir die oorweging van die aansoek.

Die uwe

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DRAFT AGENDA FOR THE MEETING OF THE NEGOTIATING COUNCIL
TO BE HELD ON MONDAY 6 SEPTEMBER 1993 AT 14H00

Chairpersonship - L Landers assisted by DJ de Villiers

Moment of Prayer/Meditation

Welcome and Attendance

Ratification of Agenda

Minutes

4.1 Ratification of the minutes of the meeting of 25 August 1993

4.2 Matters arising out of the minutes of the meeting of 25 August 1993

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

Planning Committee Reportback

Substantive Issues

6.1 The Final Draft of the Transitional Executive Council Bill

6.2 Third Draft Interim Constitution

Administrative and Financial Matters

Meetings Schedule and Draft Programme

Closure

NEGCOUNS/AGENDA/AGEN0609

September 2, 1993

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DRAFT PROGRAMME FOR MEETINGS

Thursday 2 September 1993

Monday 6 September 1993

Tuesday 7 September 1993

Thursday 9 September 1993

Tuesday 14 September 1993

Wednesday 15 September 1993

Thursday 16 September 1993

2 SEPTEMBER 1993

Discussion:

Discussion:

Discussion:

Discussion:

Discussion:

Discussion:

Discussion:

IBA (finalise & formal
adoption)
Interim Constitution

TEC (finalise & adoption)
Interim Constitution

Interim Constitution

Interim Constitution

Interim Constitution
Interim Constitution

Electoral Act

PLANCOMM/DOCUMENT/SCHED
2 September 1993

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REVISED PROPOSED SCHEDULE OF MEETINGS

Negotiating Council

Planning Committee
Negotiating Council
Negotiating Council
Negotiating Council

Negotiating Council
Negotiating Council
Negotiating Council

Please note :

2 SEPTEMBER 1993

Thursday 2 September 1993

Monday 6 September 1993
Monday 6 September 1993
Tuesday 7 September 1993
Thursday 9 September 1993

Tuesday 14 September 1993
Wednesday 15 September 1993
Thursday 16 September 1993

09h00-16h00

09h30-13h00
14h00-19h00
09h00-19h00
09h00-18h00

09h00-19h00
09h00-19h00
09h00-18h00

The adjournment times of the Negotiating Council meetings as stated are target times, which will only apply if the agenda has been completed, subject to the final decision of the meeting.

PLANCOMM/DOCUMENT/SCHED
2 September 1993

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