

2/21/1/6/4

**INTERNAL MEMORANDUM**

**To :** Louisa Zondo  
cc Secretariat Theme Committee 2  
Lucille Meyer

**From :** Katharine McKenzie

**Date :** 7 September 1995

**Re :** Fifth draft text on the National Executive

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Attached is a copy of the minutes of Monday's Subcommittee meeting which dealt with the National Executive and the National and Provincial Competencies.

It was originally planned that the National Executive should be placed on the agenda of Monday's Subcommittee meeting, but it appears that several issues in the draft prepared by Prof Steytler have not been changed quite as the meeting had agreed.

They are listed below:

1. **Executive power**

It was agreed in the meeting that clause 1 should be amended to read:

***The executive power of the Republic as provided in the Constitution is vested in the State President and Cabinet.***

The point was made in the meeting that executive power resides in the State President and Cabinet and not in the national government as reflected in the fifth draft.

2. **Term of office**

2.1 The CC Subcommittee agreed that the term of office for the President should not exceed two full terms, this is not reflected in the new draft.

2.2 A request was made that the footnote attached to the term of office be clarified, it does not appear to have changed.

3. **Presidential prerogatives**

A further report is still being awaited.

**4. Deputy State President/Prime Minister**

It was agreed in the meeting that two drafts would be included in the text for further discussion. One based on the position put forward by the NP, which provides for two Deputy State Presidents one coming from the largest opposition party, and one based on the position put forward by the DP. A draft formulation based on the NP position has not been included in the fifth draft.

**5. Removal of State President or Deputy State President**

5.1 The ANC stated that they supported the inclusion of an impeachment clause rather than a vote of no confidence, as this was a shift from their earlier position the contention now fell away. This is not reflected in the footnote on page 10, which still records this issue as contentious.

5.2 It was agreed in discussion that footnote 11.2 should be reformulated because when read with 11(1) it was possible that the President should be impeached due to incapacity and lose his or her pension and other benefits. It was agreed that this was not fair. A further formulation has not been included in the text.

**6. Votes of no confidence**

The meeting did not finalise this issue but made a number of suggestions that could be included in the footnotes, as they reflect an advance in the debate. The ANC put forward a new position - that they did not support the view that State President could not be removed on the basis of a vote of no confidence. The DP proposed a new draft formulation and this is not included in the footnotes.