

TC3 SUBS

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**CONSTITUTIONAL
ASSEMBLY**

**MANAGEMENT
COMMITTEE**

**THURSDAY
31 AUGUST 1995
(08H00)
V16**

DOCUMENTATION

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CONSTITUTIONAL ASSEMBLY

MEETING OF THE MANAGEMENT COMMITTEE

Please note that a meeting of the above committee will be held as indicated below :

Date : Thursday 31 August 1995

Time : 08h00 - 10h00

Venue : V16

TO DISCUSS
NEXT WEEK -
9/2/96 PRES OPENS PARL
MON 23/1/96 CA STARTS

AGENDA

1. ✓ Opening
2. ✓ Minutes: Pages 2 - 4
3. Matters Arising: See Agenda Items Below
4. Discussion on Constitutional Assembly Process: Pages 5 - 10
5. Discussion on the Constitutional Talk-Line: Pages 11 - 13
6. Agenda for 1 September 1995 Meeting of the Constitutional Committee: Page 14
7. AOB - HASSEN - CPM
8. Closure

MC - THURS NEXT 7/9
CC - MON 4/9

REVISIT DISCUSSIONS
IN CC

P. SHERSTONE MTD - EXPECTATIONS / SECURITY

H EBRAHIM
EXECUTIVE DIRECTOR
CONSTITUTIONAL ASSEMBLY

Enquiries : Ms MM Sparg, Tel 245-031, Page 418 4616 code 6970

**CONSTITUTIONAL ASSEMBLY
MINUTES OF MANAGEMENT COMMITTEE MEETING
THURSDAY 17 AUGUST 1995 (AT 08H00)**

**PRESENT
RAMAPHOSA M C (CHAIRPERSON)**

**Chabane OC
Eglin CW
Green LM *
Meyer RP
Moosa MV**

**Myakayaka-Manzini YL
Sizani RK
Van Breda A
ViljoenCL
Wessels L (Deputy Chair)**

*** Alternates**

Apologies: K R Meshoe

Absent : P F Smith.

In attendance: H Ebrahim, P Lilienfeld, M Sparg, L Zondo, N Msizi and M Keegan.

1. OPENING

The Chairperson opened the meeting at 08h09. The agenda was adopted.

2. MINUTES

The meeting adopted the Minutes of the meeting of the Management Committee on Thursday 10 August 1995.

3. MATTERS ARISING

None - included in agenda items below.

4. DISCUSSION: FUTURE OF THE COMMISSION ON PROVINCIAL GOVERNMENT

4.1. On behalf of the Inter-Governmental Forum, Mr. Moosa asked whether the Constitutional Assembly had a special request for the continued existence of the Commission on Provincial Government.

4.2. The meeting noted that the Chairpersons undertook discussions with the Commission on Provincial Government only on process, to ensure that the Commission's recommendations slotted into Theme Committee work programmes.

4.3. It was agreed that it was the Inter-Governmental Forum's task to assess whether the Commission's work was done and to make recommendations accordingly.

5. CONSTITUTIONAL COMMITTEE AGENDA FOR 18 AUGUST 1995

The meeting adopted the document entitled, *"Draft Agenda, Constitutional Committee Meeting, 18 August 1995,"* included in the documentation.

6. CONSTITUTIONAL ASSEMBLY AGENDA FOR 25 AUGUST 1995

- 6.1 Mr. Ebrahim spoke to the document entitled, "*Report and Agenda for CA on 25 August 1995*," tabled at the meeting and made the following corrections to paragraph 4:
- i. "Four" should replace "three", to read: "four broad areas under discussion;" and
 - ii. The following line should be inserted: 4.4: National Executive and National Legislature.
- 6.2 The meeting agreed that the Constitutional Assembly would convene between 09h00 and 13h00 on Friday 25 August 1995.
- 6.3 The meeting agreed that the main purpose for the meeting was to update the Constitutional Assembly on the work of the Constitutional Committee and to provide an opportunity to discuss draft formulations.
- 6.4 It was agreed that the Constitutional Assembly meeting would focus on the following broad areas: Independent Institutions and Public Administration; Courts and Administration of Justice; and Security Services.
- 6.5 Mr. Eglin of the DP suggested that the National Executive and National Legislature be deferred to a later meeting. The Chairperson agreed to reassess the agenda, but said that those matters should be left on if at all possible, because there were so few Constitutional Assembly meetings left.
- 6.6 Mr. Sizani of the PAC expressed concern that the programme would be very heavy. The meeting agreed that broad reports would be given, and that discussion would focus on issues where there was still no agreement.
- 6.7 It was agreed that the Chairpersons would identify those issues.
- 6.8 It was agreed, the Report to the Constitutional Assembly would include all the draft formulations considered by the Constitutional Committee.
- 6.9 The Chairperson ruled that the Administration would prepare a separate memorandum for the meeting that identified the contentious issues and referred members to the paragraphs of draft texts concerned.
- 6.10 The Mr. Sizani of the PAC expressed concern that the proposed structure of the meeting gave minority parties little time to express their views. Mr. Eglin of the DP and Mr. Viljoen of the FF agreed.
- 6.10 The meeting agreed that:
- i. When a meeting of the Constitutional Committee had to make formal decisions or pass resolutions, formal procedures would be used to allocate time to political parties for speakers; but,
 - ii. When the purpose of the meeting was to inform and discuss, less formal procedures could be used.

6.11 The meeting agreed that during the Constitutional Assembly meeting of 25 August 1995, the Chairperson would control the allocation of time to political parties from the chair, as happened at Constitutional Committee meetings.

6.12 The meeting agreed that the Constitutional Committee would be convened on Friday 25 August between 14h00 and 16h30.

7. AOB

7.1 REPORT BACK ON MEETING WITH THE PARLIAMENTARY WHIPS

Mr. Wessels reported that the meeting of Whips accepted the Constitutional Assembly schedule for the week beginning 21 August 1995.

8. CLOSURE

The meeting closed at 09h00.

MEMORANDUM

To: The Management Committee
From: Hassen Ebrahim
Executive Director
Date: 30 August 1995

RE: PROPOSALS ON PROCESS

1. INTRODUCTION

- 1.1 Negotiations on substantive matters have now begun. We appear to be making good progress. It would appear that we could possibly complete a substantial portion of the constitutional text by 15 September.
- 1.2 The Constitutional Assembly has thus far been successful in meeting its stated objectives. We have enjoyed an effective interaction with civil society and a significant profile. The success of our media and public participation activities generated an overwhelming number of submissions reflecting public interest.
- 1.3 There is however some element of scepticism amongst the general public as to the effectiveness of their submissions. Questions have been raised as to whether the views of the public would not be sacrificed at the altar of political compromise. Another concern which has also been raised by members of the Constitutional Assembly has been the value of the work produced by them in the Theme Committees. These are concerns which, while they may not be justified, cannot be ignored and require some consideration and attention.
- 1.4 We are now obliged to plan and prepare for the process ahead. In doing so there are a number of questions which come to the fore. These are as follows:-
 - a) What is the form of the text that should be published?
 - b) When should the draft text be published?
 - c) What form should the publication and launch of the draft

- constitutional text take?
- d) What period should we allow for the response by role players to the draft text?
 - e) What public participation activities are required subsequent to the publication?
 - f) What is our responsibility upon adoption of the constitutional text?

2. THE PROPOSAL

- 2.1 The text should be published in a reader-friendly form that directs the public as to the areas where comment is necessary. The launch of the publication must be a high profiled event accompanied by wide media coverage and a programme of public meetings reporting on the draft. At least three clear months must be given for effective comment. Public hearings must be held with the national and provincial sectors of civil society to entertain their comments on the draft.
- 2.2 The Constitutional Assembly should be given the responsibility of popularising the final constitutional text.
- 2.3 It would be necessary to ensure that the interim constitution be amended as it is anticipated that the process would conclude no earlier than the end of 1996.

3. WHAT FORM SHOULD THE DRAFT TEXT TAKE?

- 3.1 We are committed to publishing the first draft text at the end of October 1995. It is assumed that by this time the draft text will not be finalised in that:-
 - a) there will still be a number of outstanding contentious issues;
 - b) some of the issues would not have been concluded, e.g. seat of government, preamble, competencies, etc;
 - c) a simple language format will not have been effected; and
 - d) the format and construction of the constitution and order of chapters will not have been agreed to.
- 3.2 The draft text that will be published should therefore clearly identify and reflect those areas of contention. The published text in this sense will not be complete or have the appearance of being final.
- 3.3 The form of the text should be reader-friendly and without footnotes. Rather, commentary should be interspersed between text in such a way that it guides the readers as to what the areas of contention are.

4. WHAT FORM OF PUBLICATION SHOULD THE FIRST DRAFT TEXT TAKE?

4.1 A two-stage process of publication is proposed:

- * Limited Publication of a Working Draft in November/December 1995; and
- * Full publication of the completed First Draft in May 1996.

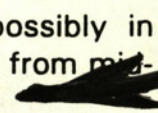
4.2 The first draft text which we publish is in effect a report by the Constitutional Assembly on its organisation of ideas contained in the many submissions made by role players, including political parties, civil society and ordinary individuals. *TARGET SPECIFIC SECTORS*

4.3 However, because of the many incomplete areas of this draft, it is more accurate to call this the first Working Draft of the new Constitution.

4.4 It is suggested that a limited number be published and mailed to all organisations and individuals who made submissions to the Constitutional Assembly.

4.5 In addition, a few advertisements will be placed notifying the public where they can obtain copies of the Working Draft. *PRESENTED IN SUCH A WAY AS TO MAKE SENSE.*

4.6 The public will not be immediately invited to make comments or submissions on the Working Draft.

4.7 The Constitutional Assembly will continue its work, possibly in November after the local government elections and again from mid-January 1996. 

4.8 It is suggested that we will have completed our work and refined the Working Draft to be able to publish the First Draft of the new Constitution by May 1996.

4.9 The purpose of this publication will be to report back, and to invite public comment on the First Draft before its final consideration and adoption by the Constitutional Assembly.

4.10 The launch of the First Draft in May 1996 will be a high-profile event accompanied by a multi-media advertising campaign, and intensive Public Participation programme.

4.11 Further details on the launch of the First Draft in 1996 will follow in due course.

WKG DRAFT FORMAT ?

5 WHAT PERIOD OF TIME SHOULD WE ALLOW FOR PUBLIC COMMENT

- 5.1 Publishing the First Draft in May 1996, will afford the public a full three-month period from May to July 1996.
- 5.2 During this period, it is proposed that structures of the CA will not be meeting, but that members of the CA will be fully involved in a Public Participation programme.
- 5.3 It is proposed that full three-month period be set aside for public comment to ensure the public is able to make a meaningful input. Constitutional Public Meetings will be held throughout the country. If the public are to "own" the new Constitution, then a good starting point would be with the members of the Constitutional Assembly who drafted it. Politically, it would be very useful for members of the Assembly to travel throughout the country during the period from May to July 1996, to report on the First Draft and encourage public comment.
- 5.4 It would be improper for the Constitutional Assembly to start its final round of debate before all role-players are given sufficient time and opportunity to comment. It is proposed therefore that the structures of the CA would begin final discussion of the draft text in August 1996.

6. PROCESSING COMMENTS AND THE FINAL DEBATE

To ensure that comments are processed efficiently, the Administration with its experience already gained would have to cater for the proper categorisation and collation of the comments. Politically, this could also effectively be done through the Constitutional Committee and its Subcommittee. However, it is also necessary that we find the means to ensure that as many members of the Constitutional Assembly are involved in this process.

7. WHAT PUBLIC PARTICIPATION EVENTS ARE NECESSARY?

- 7.1 In the second phase of publication the Constitutional Assembly should hold public hearings in all provinces involving all sectors of civil society. This will ensure that they are given meaningful opportunity and a forum through which their comments could be considered.
- 7.2 These meetings should be well publicised and allow for the widest possible spectrum of interest groupings to attend. Extensive advertising will be necessary to ensure full participation. A relationship with structures of civil society in organising these hearings would be important.

8. POPULARISING THE CONSTITUTION

The process of adopting a final constitutional text which can claim legitimacy and credibility must culminate in a campaign to popularise it. Outside of the Constitutional Assembly there is no administration or infrastructure that is able to undertake this exercise. Accordingly, it is proposed that it be the responsibility of the Constitutional Assembly to popularise the Constitution immediately upon its adoption. This will be a logical extension of the public participation programme which we embarked upon from the onset of the process.

*PROV AFFAIRS
MINISTER CONST DEVEL 92*

9. TIME FRAMES

9.1 The implication of the above proposals on time frames are that we would not complete our constitutional assignment before May 1996. This would therefore necessitate an amendment of the constitution.

9.2 Should publication of the First Draft text take place in May 1996, and public comment is allowed to continue until the end of July 1996, it is suggested that we would require:-

- a) At least an additional two to three months before adoption could take place. This would include the time necessary to process all comments and negotiate the final text;
- b) At least a further six weeks would be necessary to ensure that the text is technically adjusted and refined;
- c) At least a further month would be required to allow the Constitutional Court to certify that the text complies with the Constitutional Principles.
- d) The popularisation of the new Constitution after adoption would require a further three months.

9.3 However, we are obliged in terms of the Constitution to complete the text by May 1996 and the assignment of the Constitutional Assembly comes to an end immediately upon adoption. An amendment of the interim Constitution would therefore be necessary to allow for adoption by November 1996. Further provision would need to be made for popularisation of the new Constitution after this date.

REVIT

10. CONCLUSION

The above proposal obviously has cost implications. Extending the life of the CA will mean continued administrative costs. The larger part of the costs however of course relate to publication. In this regard, it is argued that the costs of publication have to be met, either now in 1995 or later in 1996, if the CA is to meet its objective of a Constitution that is truly owned by the people of South Africa.

We believe that a staggered process of publication in two phases as outlined in this document, will go a long way to ensuring that the public gets value for the public funds expended on the process of publication. In addition, efforts are already being made to obtain sponsorship, locally and abroad, for such a programme.

REGULAR PROCESS REPORT - ✓
LM AT PROVINCIAL #



CONSTITUTIONAL ASSEMBLY

MEMORANDUM

TO: MANAGEMENT COMMITTEE
FROM: EXECUTIVE DIRECTOR
DATE: 29 AUGUST 1995
RE: BRIEFING ON CONSTITUTIONAL TALK-LINE

BACKGROUND:

Public interest in the constitution-making process has increased dramatically over the past few months and the Public Relations Office of the CA Administration has been inundated with calls from the public requesting information on CA developments. In view of this, an investigation has been made into the usage of an information/education telephone line.

Given the high levels of illiteracy, the telephone audio-text emerged as an ideal option to disseminate information and to give the public the opportunity to make verbal comment on the constitution-making process.

WHAT IS AUDIO-TEXT ?

See attached Flow Chart. Audio-text is a computerised voice and data-processing unit interfaced with the standard Telkom telephone network.

OPERATIONAL DETAILS

The Media Department in conjunction with an agency, Media Options, will prepare scripts and topics which will be translated into all 11 official languages and recorded into the audio text system.

These topics will be determined by the developments within the CA and will be changed on a regular basis, overseen by the same Editorial Board for Constitutional Talk.

OPERATIONAL COSTS

Telkom has generously agreed to full sponsorship of the entire project. The operational cost from September 1995 to May 1996 is approximately R400 000. Telkom's only proviso is that all CA media should contain the telephone number of the Constitutional Talk-Line.

P. O. Box 15, Cape Town, 8000
Republic Of South Africa

Tel: (021) 245 031, 403 2252 Fax: (021) 241 160/1/2/3, 461 4487. E-mail: conassem@iaccess.za



You've made your mark



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Embargoed until 08h00 31 August 1995

LAUNCH

The project will be launched on Thursday 31 August 1995. An invitation has been extended to all Management Committee members.

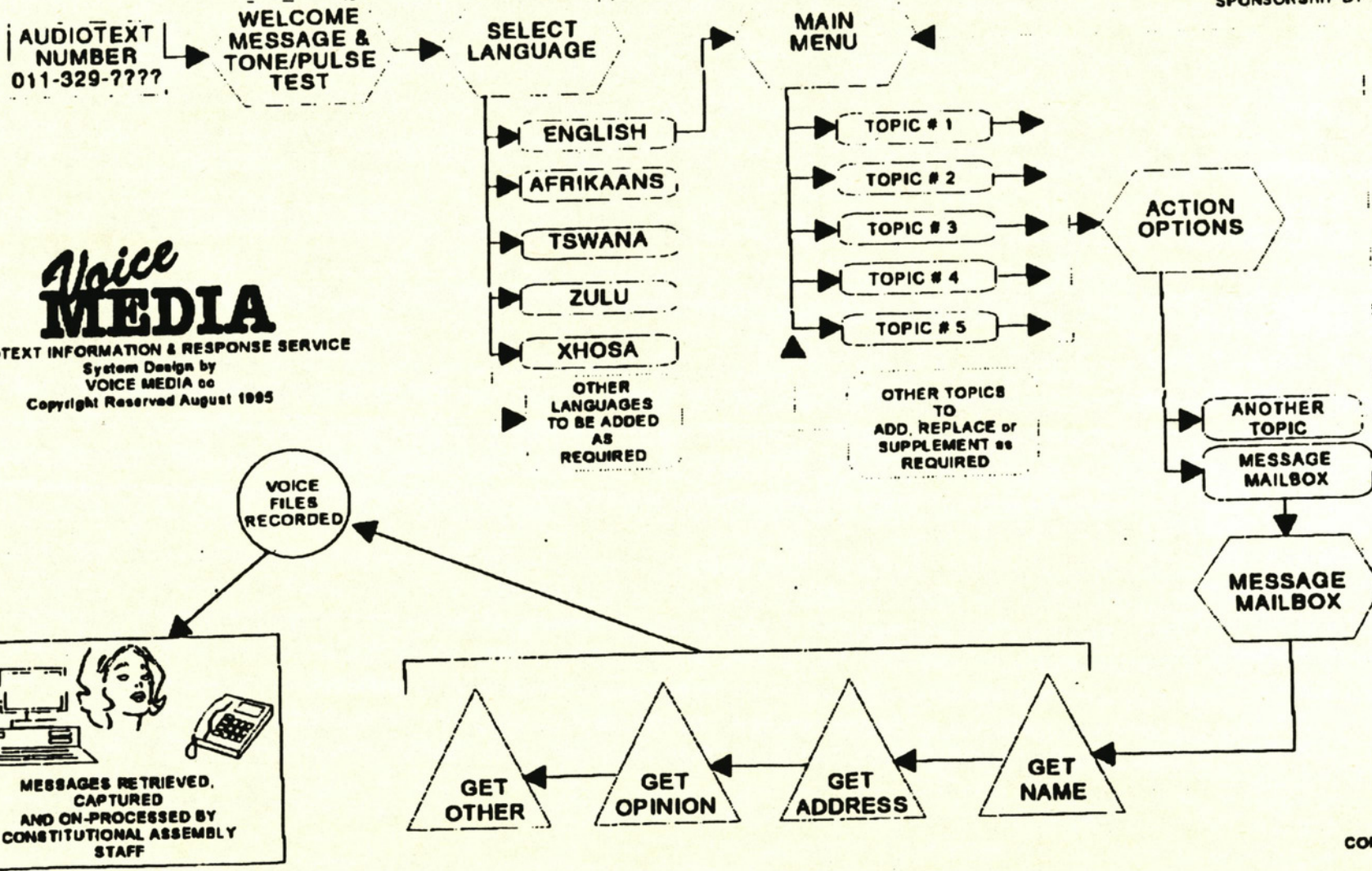
CONCLUSION

Constitutional Talk-Line is a prestigious project and probably the first of its kind in the history of South African government.

AUDIOTEXT INFORMATION & RESPONSE SERVICE for THE CONSTITUTIONAL ASSEMBLY



SPONSORSHIP BY TELKOM



**Voice
MEDIA**

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Embargoed until 08h00 31 August 1995

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CONSTITUTIONAL ASSEMBLY

MEETING OF THE CONSTITUTIONAL COMMITTEE

Please note that a meeting of the above committee will be held as indicated below :

Date : Friday 1 September 1995

Time : 09h00 - 17h00

Venue : Old Assembly Chamber

DRAFT AGENDA

1. Opening
 2. Minutes: *Pages 2 - 5*
 3. Matters Arising:
 - 3.1 Discussion: Courts and Administration of Justice: Amended Formulations: *Pages 6 - 17*
 4. Tabling and Discussion: Theme Committee 1 Report on Blocks 7 and 9: Language, Name, Symbols, National Territory, and Seats of Government: *Pages 18 - 150 and separate documents*
 5. Tabling and Discussion: Theme Committee 1 Memorandum on Preamble and Postamble: *Page 151*
 6. Discussion: Sub-Committee Report on National Assembly: *See separate document*
 7. AOB — *Russie M. (V. M. M. M.)*
 8. Closure
- Handwritten notes:*
MIN. SKITTER NOT AVAILABLE
MIN. MEYER TO SPEAK TO HIM AS CC DISCUSSION
REFERS 2 AMENDMENTS

H EBRAHIM
EXECUTIVE DIRECTOR

Enquiries : Ms MM Sparg, Tel 245-031, Page 418 4616 code 6970

