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CONSTITUTIONAL ASSEMBLY

**THEME COMMITTEE 3
RELATIONSHIP BETWEEN
LEVELS OF GOVERNMENT**

24 October 1994

Room E249

DOCUMENTATION

CONSTITUTIONAL ASSEMBLY

MEETING OF THE THEME COMMITTEE 3 RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

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

Date : 24 October 1994

Time : 10h00-11h30

Venue : E249

AGENDA

1. Opening *De Toit*
2. Minutes of the previous meeting
3. Matters arising
4. Discussion on Briefing Document
5. Core Group report
6. The work plan
7. Any other urgent business *Alter rates.*
8. Closing

NB: ALL MEMBERS TO BRING TO THE MEETING COPIES OF THE CONSTITUTION AND STANDING RULES.

H Ebrahim
Executive Director
Constitutional Assembly

Enquiries: Mbasu and Sandra, Room CS212 (tel 403-2275)

**CONSTITUTIONAL ASSEMBLY
MINUTES OF
FIRST MEETING OF
THEME COMMITTEE 3
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT
MONDAY 19 SEPTEMBER 1994 (AT 14H00)**

PRESENT

Andrew KM
Breytenbach WN
Coetzee MP
Du Toit DC
Goosen AD
Groenewald PJ
King T J
Kota Za
Mapisa NN
Modisenyane L J
Rabinowitz R
Shandu EN (Alternate)
Suttner R S
Vos SC (Alternate)

Bhabha M
Carrim YI
de Lille P
Fourie A
Gordhan P J
Khobe ON
Koornhof GW
Mahlalela A F
Mashamba HJ
Mtshali LP
Saaiman PW
Smith PF ✓
Verwoerd M (Alternate)

M Mxenge, M Sparg, S Haydon and L Zondo were in attendance.

1. OPENING

The meeting was opened by Ms Zondo who chaired the meeting in terms of Rule 25 of the Standing Rules.

2. APPOINTMENT OF THE CORE GROUP MEMBERS

The following people were appointed as members of the Core Group :

- * Andrew KM (DP)
- * de Lille P (PAC)
- * Du Toit DC (ANC)
- * Fourie A (NP)
- * Groenewald PJ (FF)
- * Mapisa NN (ANC)
- * Mtshali LP (IFP)

3. ELECTION OF CHAIRPERSON

It was agreed the Core Group would meet to elect the Chairpersons. It was further agreed Ms Zondo would chair the rest of the meeting.

4. GENERAL DISCUSSION ON THE OBJECTIVES OF THE COMMITTEE

- 4.1 It was agreed the major objectives of the committee were to facilitate broader public participation in the process, especially with a view to inviting submissions and contributions from the public, processing these and submitting systematic reports to the Constitutional Committee and Constitutional Assembly.
- 4.2 It was noted that the role of Theme Committees with regard to drafting of the new constitutional text was still being looked at by the Constitutional Committee.

5. GENERAL DISCUSSION ON PROGRAMME OF WORK

- 5.1 It was agreed that whilst the five key aspects set out as terms of reference for the committee in the Constitutional Assembly Resolutions were correct, these should be considered guidelines and not be rigidly adhered to.
- 5.2 It was further agreed that a discussion focussing on how the committee understood the Constitutional Principles was essential.
- 5.3 It was agreed that local government and the relationship with provinces were areas which should receive priority attention. In this regard it was agreed that submissions from Premiers and provincial government should be sought in a structured fashion.

- 5.4 It was agreed that the Management Committee be requested to look into the matter of time frames and a publicity campaign to make the public aware of their role in the process. It was suggested that the first phase of calling for public submissions should concentrate on general submissions with more focussed submissions to follow. It was further agreed that a media campaign should not exclude the possibility of holding public fora at some point in the process.
- 5.5 It was agreed that the matter of technical and expert assistance should be dealt with at a later stage when the committee had developed its work programme and thus had greater clarity on what kind of expertise was required.

6. INVITE PARTIES TO MAKE SUBMISSIONS RE: 5 ABOVE

It was agreed that preliminary submissions from political parties be submitted to the Management Committee by 22nd September. These would then be referred to the Theme Committee. It was however agreed that this matter be referred to the Management Committee to consider further deadlines for submissions.

7. AGENDA FOR THE NEXT MEETING

It was agreed the Core Group would deal with this matter.

8. CLOSURE

The meeting rose at 15h50.

**CONSTITUTIONAL ASSEMBLY
MINUTES OF
FIRST MEETING OF
CORE GROUP
THEME COMMITTEE 3
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT
MONDAY 19 SEPTEMBER 1994 (AT 16H00)**

PRESENT

Andrew KM
de Lille P
Du Toit DC
Fourie A
Groenewald PJ
Mapisa NN
Mtshali LP

M Mxenge was in attendance.

1. NOMINATION OF ROTATING CHAIRPERSONS

1.1 The following members were nominated as per the decision of the Constitutional Committee Meeting of the 12 September 1994, by the Core Group.

1.2 The nominees are:

Andrew KM
de Lille P
Du Toit DC

1.3 Prof Du Toit was nominated as the Chairperson for the next meeting of the Core Group.

2. CLOSURE

The meeting rose at 16H10.

**CONSTITUTIONAL ASSEMBLY
MINUTES OF
CORE GROUP
THEME COMMITTEE 3
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT
THURSDAY 22 SEPTEMBER 1994 (AT 08H35)**

PRESENT

Andrew KM
de Lille P (arrived at 08H58)
Du Toit DC (Chairperson)
Groenewald PJ
Mtshali LP

Apologies
Mapisa NN

~~Absent~~
Fourie A

M Mxenge was in attendance.

1. OPENING

The meeting was opened by Prof Du Toit.

2. THE WAY FORWARD

- 2.1** It was agreed that Party Submissions on the process and work programme of the Theme Committee should be submitted to the Secretariat by 14 October 1994.
- 2.2** It was agreed that the Secretariat should process the submissions as they arrive and send copies to the Core Group during recess.

3. THE AGENDA FOR 17 OCTOBER 1994

- 3.1** It was agreed that the Core Group should meet on the 17 October 1994 at 09H00 to 11H00 to consider submissions and to look into the agenda for the Theme Committee Meeting which shall be held on the 24 October 1994.
- 3.2** The Theme Committee awaits direction from the Constitutional Committee on the work programme.

4. CLOSURE

The meeting rose at 09H00.

**CONSTITUTIONAL ASSEMBLY
MINUTES OF
THIRD MEETING OF
THEME COMMITTEE 3
CORE GROUP
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT
WEDNESDAY 19 OCTOBER 1994 (AT 18H40)**

PRESENT

Andrew KM
Du Toit DC
Groenewald PJ
Mtshali LPHM

Abesent
De Lille P
Fourie A
Mapisa NN

Mbasa and Sandra were in attendance.

1. OPENING

The meeting was opened by Prof Du Toit who chaired the meeting.

2. WORK PROGRAMME

2.1 It was agreed that a deadline should be set for the submissions on the work programme, by political parties.

2.2 The date of 15 November 1994 was suggested as being the deadline.

3. AGENDA FOR THEME COMMITTEE MEETING 24 OCTOBER 1994

The draft agenda was approved.

4. GENERAL

The meeting of the Core Group set down for 17 October 1994 was cancelled following the advice of the Management Committee.

5. CLOSURE

The meeting rose at 19h10.

H Ebrahim
Executive Director
Constitutional Assembly

Enquiries: Mbasu & Sandra, Room CS212, (Tel 403-2275)

CONSTITUTIONAL ASSEMBLY

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REPUBLIC OF SOUTH AFRICA

REF NO:

TC/1/18.10.94

18 October 1994

MEMORANDUM

To : **Members of Theme Committees**

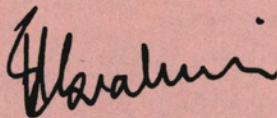
From : **Hassen Ebrahim
Executive Director**

RE : WORK PROGRAMME

1. The Management Committee and Constitutional Committee met on 17 October 1994. One of the items discussed in these meetings was a draft work programme for Theme Committees. A comprehensive work programme is still under consideration and will be finalised shortly.
2. However, it has been agreed that Theme Committees should work towards 30 June 1995 as the target date for completing their work. In terms of this agreement, all Theme Committees are required to submit a detailed report to the Management Committee detailing their work plan. This report should be submitted to the Executive Director by no later than 15 November 1994.
3. It is recommended that these reports be structured in the following way :
 - a) Which constitutional issues within the broad Theme need to be attended to;
 - b) Which of these constitutional issues need to be dealt with as a priority;
 - c) Which are the areas of overlap with each other in the Theme Committee;

- (d) Which constitutional issues need to be dealt with in Commissions;
 - (e) Which groups of constitutional issues do the committee anticipate will require the submission of separate reports;
 - (f) How many such reports are to be issued and what are the deadlines for the submission of same;
 - (g) What are the structures and who are the role players that are to be consulted;
 - (h) What community and media liaison assistance will be required to facilitate the committee's work;
 - (i) Who and what technical assistance will be required to support the committee.
4. Kindly note that your reports should contain sufficient detail so as to assist and guide the Administration in making the necessary preparations for the public participation programme relevant to your Theme Committee.

Should you have any queries with regard to the above, please do not hesitate to call on the writer hereof.



HASSEN EBRAHIM

BRIEFING DOCUMENT FOR THEME COMMITTEES

*(as Enacted by the Constitutional Committee meeting
of 17 October 1994)*

1. INTRODUCTION

The Constitutional Assembly has the right to debate in detail, oversee and direct the drafting of and adopt the new constitutional text. In order to perform its functions it has established Theme Committees to deal with the wide range of issues to be covered in the new constitutional text.

2. SELECT COMMITTEES

2.1 Theme Committees are select committees of the Constitutional Assembly.

2.2 Rule 20 of the Standing Rules defines a select committee as any committee, other than the Constitutional Committee, which is made up of members of the Constitutional Assembly only.

3. APPOINTMENT OF THEME COMMITTEES

3.1 Rule 21 of the Standing Rules provides, that a select committee may be appointed by a resolution of the Constitutional Assembly or under a rule approved by it. On 15 August 1994, the Constitutional Assembly passed a resolution to appoint select committees, called Theme Committees.

3.2 The Constitutional Assembly approved the appointment of six Theme Committees on the following constitutional themes; character of a democratic state, structure of government, relationship between the levels of government, fundamental rights, judiciary and legal systems and specialised structures of government, by resolution on 5 September 1994.

3.3 The composition of Theme Committees is provided for in rules 22 and 23 and in the Constitutional Assembly resolution of 5 September 1994. In terms of the said resolution Theme Committees shall be made up of thirty Constitutional Assembly members or such smaller number as the Constitutional Committee may decide upon.

4. MANAGEMENT

- 4.1 Each Theme Committee shall appoint no more than 8 of its members to form a "core group" that will be responsible for managing the work programme of the Theme Committee. Political party representation in each core group shall be as follows; 2 members from the ANC, and one from the NP, IFP, PAC, FF and DP respectively. In respect of Theme Committees that have an ACDP member, the core group shall include such member.
- 4.2 The core group will liaise with the managing secretary allocated to the Theme Committee with regard to the preparation of agendas for Theme Committee meetings, the circulation of relevant documents to Theme Committee members and other administrative matters relating Theme Committee meetings.

5. CHAIRING

- 5.1 Rule 25 provides for the election of a chairperson of the committee from among the committee members. However, in terms of a Constitutional Committee decision of 12 September 1994, this rule should be amended to provide for the appointment of no more than three co-chairpersons from each "core group". The co-chairpersons will chair meetings, on a rotational basis agreed upon.
- 5.2 The positions shall not be remunerable.

6. ROLE OF THEME COMMITTEES

- 6.1 Constitutional Assembly resolution of the 5th September 1994, provides for the role, functions and structure of reports of Theme Committees.[see Constitutional Assembly Resolutions, pages 7 and 9.]
- 6.1(a) Drafting is directed by the Constitutional Assembly.
- 6.1(b) The Constitutional Committee is responsible for the co-ordination of all Constitutional Assembly work, including drafting.
- 6.1(c) The primary task of Theme Committees is to receive submissions and process them into reports for consideration by the Constitutional Committee.

6.1(d) By resolution of the Constitutional Assembly, the reports should therefore include details of non-contentious issues, contentious issues and suggested approaches.

6.2 Flexibility should be an important feature of the work programmes of Theme Committees. In view of possible overlaps, Theme Committees are not barred from dealing with an issue that another Theme Committee may be considering. Their work programmes should be guided by the integrated nature of constitution-making process and the existence of time constraints.

7. RELATIONSHIP WITH OTHER CONSTITUTIONAL ASSEMBLY STRUCTURES

7.1 Constitutional Committee

7.1.1 Theme Committees will compile reports which include details of non-contentious issues, contentious issues and suggested approaches, for consideration by the Constitutional Committee.

7.1.2 The Constitutional Committee may, after deliberating on a theme committee report, refer the report to the Constitutional Assembly.

7.2 Management Committee

7.2.1 The Management Committee is responsible for the following functions;

- (a) dealing with process matters,
- (b) implementing tasks of the Constitutional Committee, and
- (c) overseeing administration,

7.3 Administration

The Administration will be responsible for the following:

7.3.1 Provision of secretariat services to the Theme Committees, including the facilitation of technical assistance.

7.3.2 Provision of general daily co-ordination.

7.3.3 Provision of research, legal services and information.

7.3.4 Facilitation and management of media and community liaison programmes.

7.4 Technical Committees

7.4.1 *Technical Committees shall nominate experts for appointment by the Constitutional Committee.*

7.4.2 The functions of Technical Committees are set out in rule 44 include the supervision of the drafting process, however, the Constitutional Committee is reviewing this rule.

7.4.3 Several ways of reporting are set out in the rule, including reporting in accordance with an assignment.