

2/4/2/2/1/13

CONSTITUTIONAL ASSEMBLY

**THEME COMMITTEE
STRUCTURE OF GOVERNMENT**

CORE GROUP MEETING

2 NOVEMBER 1994 : 08H00 - 10H00

ROOM E216

DOCUMENTATION

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CONSTITUTIONAL ASSEMBLY

FIFTH MEETING OF THE CORE GROUP

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

Date: Wednesday 2 November 1994

Time: 08h00 - 10h00

Venue: Room E216

AGENDA

1. Opening and welcome
2. Theme Committee minutes : 31 October 1994
3. Core Group Minutes : 27 October 1994
3. Matters Arising
4. Work Plan and submissions
5. Invitation by Theme Committee 6

NB: ALL MEMBERS ARE REQUESTED TO BRING ALL THE NECESSARY DOCUMENTATION TO THE MEETING.

**ENQUIRIES: MS N CETYWAYO AND P FAHRENFORT
TEL.: 403-2281**

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 2 STRUCTURE OF GOVERNMENT

MINUTES OF THE THIRD MEETING MONDAY 31 OCTOBER 1994 (AT 08H00)

PRESENT

Rabie JA (Chairperson)

Ackerman C
Bhengu G (Alt for VB Ndlovu)
Beyers AS
Doidge GQ
Ebrahim AG
Eglin CW
Foster JA
Groenewald PH
Holomisa SP
Ligege MG

Louw SK
Mabudafhasi RT
Maduna P
Mahlangu MJ
Mars I
Mutsila I
Olifant D
Pahad EGH
Sethema BEE
Shabangu S
Steenkamp PJ

N Cetywayo, H Ebrahim and P Fahrenfort were in attendance

APOLOGIES

Ndlovu VB

1. MINUTES

The minutes of 24 October 1994 were adopted.

2. MATTERS ARISING FROM MINUTES

None.

3. CORE GROUP REPORT ON WORK PLAN

3.1 The Chairperson gave a report on the Core Group meeting of Thursday 27 October 1994 where submissions received were processed.

- A three-phased approach recommended by NP was adopted
- the core group agreed that ANC, DP and Freedom Front's submissions be integrated. It was further agreed that the work plan and reports thereof be started from 30 October 1994 and finalised by 15 November 1994
- it was agreed that parties that have not submitted names or have made no submissions be given until Friday 4 November 1994 to do so and brief CVs of the names given be attached

3.2 Electoral Systems

The Theme Committee agreed that a separate commission be appointed to deal with the issue of the electoral system.

3.3 Volkstaat and Traditional Leaders

The meeting agreed that a joint commission between Theme Committees 2,5 and 6 be established to deal with the issue of Volkstaat and Traditional leaders. It was further agreed that the co-chairpersons meet with the co-chairpersons of the above committees and arrange a joint commission meeting. It was recommended that traditional leaders be consulted on all levels.

3.4 Separation of powers

It was noted that separation of powers is in relation to Executive legislature and judiciary. The meeting agreed that Theme Committee 2 will take note of Provincial Government and Local Authorities because they are essentially Theme Committee 3's task. It was also agreed that the core group organise/arrange a meeting with Theme Committee 3 to look at overlapping areas.

3.5 Separate reports to be submitted

It was agreed that separate reports on issues requiring such reports be submitted on a continual basis.

3.6 It was agreed that the "type of experts required" [item J of the Theme Committee Work Plan Report] be deleted.

3.7 It was agreed that an advertisement be placed for the general public to make submissions with regard to Theme Committee 2's constitutional issues [CA Resolutions]

4. **CLOSURE**

The meeting rose at 08h45.

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 2

MINUTES OF THE FOURTH CORE GROUP MEETING THURSDAY 27 OCTOBER 1994 : 17H00

PRESENT

JA Rabie (Chairperson)

Ebrahim G
Eglin CW
Groenewald PH
Pahad EGH

APOLOGIES

Mahlangu MJ
Ndlovu VB

N Cetywayo and P Fahrenfort were in attendance

1. OPENING AND WELCOME

The meeting was opened and chaired by Mr JA Rabie.

2. MINUTES

The minutes of 24 October 1994 were adopted.

3. MATTERS ARISING

None

4. WORK PROGRAMME

4.1 The meeting adopted Mr Rabie's report on the joint Theme Committee (TC) Core Groups 2, 5 and 6. [See page 6 of documentation for Theme Committee Meeting of 31 October 1994]: which had discussed "Traditional Leaders" as an overlapping theme.

4.2 It was agreed that pending approval by the Theme Committee the priority work plan item would be "separation of powers and the executive". A sub-committee would be established to undertake this task as soon as possible.

5. SUBMISSIONS

The format suggested by the CA Administration will be adopted:

5.1 Constitutional Issues

The meeting adopted the issues as detailed in the Constitutional Assembly Resolutions of 2 September 1994.

5.2 Priority Issues

ANC: Electoral Systems

DP: Separation of Powers

FF: Structure of Government with special reference to Local Government

IFP: Separation of Powers with emphasis on Provincial Government and the role of the Senate in government

NP: Separation of powers... the Executive

5.3 Overlap with other Theme Committees

ANC: Separation of Powers - TC 1 and 2
Traditional Leaders - TC 2, 5 and 6

DP: Traditional Leaders - TC 2, 5 and 6

FF: Volkstaat and Tribal Authorities - TC 2, 5 and 6

IFP: Provincial Government - TC 1, 2, 4 and 5

NP: To be identified and addressed last

5.4 Technical Experts and Commissions

DP: Separation of Powers
Electoral System

FF: Democracy and the Electoral System
The role of the Executive, the National Assembly and the Senate
Local Government
The Volkstaat
Tribal Authorities

IFP: In addition to lawyers, include specialists in government and sociologists

5.5 Reports

ANC: Separate reports will have to be submitted on the following issues:

Electoral Systems
Separation of Powers
Parliament
Structure of government - National, Provincial and Local
Status and role of traditional leaders

IFP: All reports should be written by members of the Constitutional Assembly and not by the Administration

5.6 Media and Community Liaison

ANC: Electronic TV and Radio
Print
SACS
Provincial Legislatures as a vehicle for community liaison

FF: A sub-committee should draw up a media plan in consultation with the Constitutional Committee

IFP: A monitoring committee should be established to control the media and public relation effort of the CA
The public should be consulted in a structured manner

5.7 Relevant role players

ANC: Traditional leaders - Contralesa, TTLA
Trade Unions - Cosatu, Fedsal, Nactu
Political Parties - SACP, Azapo, Unity Movement, Wosa, CP, HNP, Minority Front, XPP, AWB
Business - Nafcoc, Fabcos, Sacob, Business South Africa, AHI, Small Traders Association
Sectoral Groups - Sanco, Religious groups/churches, Women's Coalition, Youth Organisation, Student organisation, Rural communities, Professional associations, traditional healers, academic groups, national steering committees for NGOs

DP: Persons/organisations who made input to Codessa and Multi-party negotiation process
Departments of Constitutional Law at universities
HSRC, Centre for Policy Studies, Groundswell
Foreign Foundations
Foreign embassies
Statutory organisations
Political parties

The public

FF: The Volkstaatraad
The Commission for provincial government
The provincial governments
The council of traditional leaders
The CP
Sabra
Oranjewerkers
Avstig
Transvaal Munisipale Vereeniging
Volkskeenhedskomitee
Volkswag
Afrikanervolksfront

The meeting rose at 18h03.

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 2 STRUCTURE OF GOVERNMENT

THEME COMMITTEE WORK PLAN REPORT

A. **Which constitutional issues within the broad theme need to be attended to**

[See CA Resolutions - 11 items]

B. **Which of these constitutional issues need to be dealt with as a priority**

- Separation of powers
- National Assembly, Senate and Parliament
- Electoral system
- Traditional leaders
- The Executive
- Local government

C. **Which are the areas of overlap with each other in the Theme Committees?**

- Traditional leaders [2,5,6]
- Provincial government [1,2,4,5]
- Volkstaat [2,5,6]

D. **Which constitutional issues need to be dealt with in committees**

- Electoral systems
- Separation of powers
- Local government
- Traditional authorities
- Volkstaat

E. **Which groups of constitutional issues do the committees anticipate will require separate reports**

- Electoral systems
- Separation of powers
- Traditional leaders
- Parliament
- Structures of government: National, Provincial and Local

F. **How may such reports are to be issued and what are the deadlines for the submission of same?**

(not addressed in submissions)

G. **What are the structures and who are the role players that are to be consulted?**

- Traditional leaders (Contralessa, TTLA)
- Trade Unions (Cosatu, FEDSAL, NACTU)
- Political parties (SACP, Azapo, Unity Movement, Wosa, CP, HNP, Minority Front, XPP, AWB)
- Business (Nafcoc, Fabcos, Sacob, Business SA, AHI, Small Traders Association)
- Sectors (Sanco, Religious, Women's Coalition, Youth, Student, Rural, Professional, Traditional Healers, Academic groups, National Steering Committee for NGOs)
- Persons/Organisation who made input to Codessa and Multi-party
- Department of Constitutional Law at universities
- NGO's (HSRC, Centre for Policy Studies, Groundswell)
- Foreign Foundations and Embassies
- Statutory organisations (Volkstaat Raad, Commission for Provincial Government, Council of Traditional leaders)
- General public
- Sabra, Oranjewerkers, Avstig, Volkeenhed Komitee, Volkswag, Afrikaner Volkfront, Transvaal Munisipaleiteits Vereeniging

H. **What community and Media liaison assistance will facilitate the committee's work**

Media: Electronic and print Media
SACS
Proposal for sub-committee to draw up media plan

Community: Provincial legislatures as vehicles for community liaison

I. **Who and what technical assistance will be required to support the communities**

Constitutional law:

- Professor David van Wyk (Unisa)
- Professor M Erasmus (Stellenbosch)
- Professor A Raath (OFS)

Political Science

- Professor D Kriek (Unisa)
- Professor D Welsh (UCT)

Fiscal Experts

- Professor F Cloete (Western Cape Demarcation Board)
- Professor C Thornhill (Pretoria)

General

- R Rosenthal (Technical Committee on Electoral Act at World Trade Centre)

J. Time Frames

1. *General Comments*

A phased approach - three phases

Phase 1 : 30 October - 15 November

Finalisation of work plan for submission to Constitutional Committee

Phase 11: 23 January - mid April 1995

January : Hearings in 3 provinces

February: Hearings in 3 provinces

March : Hearings in 3 provinces

- National Hearing March/April in Cape Town
- Receipt of written submissions by 31 March 1995
- Processing of submissions
- Formulation of Theme items and approval
- Publication of formulation for public opinion
- Production of first draft report end of April

Phase 111 : After Easter to June 1995

- Internal discussion and debate
- Co-ordination and processing of public opinion
- Identification of contentious and non-contentious issues
- Evaluate draft report
- Finalisation of report and submission to Constitutional Committee

Issue identification and Agenda

Refer to IFP submissions [page 7-18] for detailed proposal on issues for discussion and how each issue should be approached