

2/3/168

CONSTITUTIONAL ASSEMBLY

**MANAGEMENT COMMITTEE
THURSDAY
3 OCTOBER 1996
V16**

DOCUMENTATION



CONSTITUTIONAL ASSEMBLY
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MANAGEMENT COMMITTEE

NOTICE OF MEETING

Please note that a meeting of the Management Committee will take place as indicated below:

Date: Thursday 3 October, 1996
Time: 08h00
Venue: V16

Agenda

1. Opening and welcome
2. Adoption of Minutes: **See Attached Minutes**
3. **Tabling and Discussion** :
 - 3.1 Technical Refinements: **See Separate Document**
 - 3.2 Sub Committee Reports: **No document**
 - 3.3 Constitutional Committee meeting - 7 October, 1996*
 - 3.3 Constitutional Assembly meeting - 11 October, 1996*
- (*) **See Proposal on Process**
4. AOB
5. Closure

Hassen Ebrahim
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You've made your mark



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THE NEW CONSTITUTION

CONSTITUTIONAL ASSEMBLY

MINUTES OF MANAGEMENT COMMITTEE MEETING THURSDAY 12 SEPTEMBER 1996

Present

MC Ramaphosa (Chairperson)
L Wessels (Deputy Chairperson)

OC Chabane
C Eglin
P Marais
R Meyer
M Myakayaka-Manzini
C Viljoen

P de Lille
L Green
K Meshoe
M Moosa
P Smith
A Van Breda

1. OPENING

- 1.1 The Chairperson opened the meeting at 08h10.
- 1.2 Mr Smith of the IFP stated that the IFP had suspended their participation in the constitution-making process in 1995. His presence in the meeting of the Management Committee did not indicate any change to this position.

However the IFP would be reviewing their position at a meeting of their national council to be held on 21 and 22 September. In light of a possible return to the process the IFP felt it could not afford to ignore developments in the Constitutional Assembly.

2 TABLING AND DISCUSSION

- 2.1 Mr Ebrahim spoke to the documents contained in the documentation before the meeting entitled:
- Judgement of the Constitutional Court
 - CA counsel opinion
 - Memorandum by H Cheadle and N Haysom
 - Proposal on process
- 2.2 Gen Viljoen of the Freedom Front said that a decision on whether the Constitutional Assembly should aim to complete certification in 1996 or 1997 should only be taken when the IFP had made a decision on its participation in the process. Gen Viljoen emphasised that the chapter on local government required a considerable amount of work and that this should be taken into account when setting a deadline for certification.

- 2.3 Mr Meyer of the NP said that the work of the Constitutional Assembly should commence speedily and that a decision on whether it was possible to certify the constitution in 1996 should not be taken yet. He noted that in its judgement the Court had stated that its reasons for not certifying the constitution presented no significant obstacles to the Assembly.
- 2.4 Mr Eglin of the DP agreed that no absolute cut off date should be set for certification but that it would be preferable if the new constitution came into effect on 1 January 1997. He suggested that those organisations whose submissions were relevant to the judgment should be encouraged to make further submissions at this stage.
- 2.5 Mr Moosa of the ANC said that should the Constitution only be certified in 1997 it would have disruptive implications for the establishment of the National Council of Provinces. He concurred with Mr Meyer that the areas isolated by the Court were not insurmountable and could be speedily dealt with.
- 2.6 Mrs de Lille of the PAC supported the view that work on the judgement should begin speedily working through the parliamentary recess if necessary.
- 2.7 Mr Smith of the IFP said that parties should develop a common understanding of the Court's judgment and that parties should be given an opportunity to table their own opinions of the judgment.
- 2.8 Mr Green of the ACDP said that the Constitutional Assembly should aim to complete the process of certification by the end of the year.

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WAY FORWARD

- 3.1 It was agreed that a sitting of the Constitutional Assembly should take place in order to table a resolution outlining the process to be followed in addressing the issues raised by the Constitutional Court. It was agreed that 18 September 1996 would be an appropriate day for this to take place.
- 3.2 It was agreed that two subcommittees would be formed to consider the issues raised by the court. This did not preclude the formation of further subcommittees should the need arise. Parties would be represented in the subcommittees as follows: ANC - three representatives, NP - two representatives, all other parties one representative each.

Parties would also be entitled to nominate alternates and a flexible approach to representation would be adopted.
- 3.3 It was agreed that parties would aim to inform the administration of the names of their representatives on the subcommittees by 18 September 1996.

- 3.4 It was agreed that the subcommittees would begin their work on 24 September 1996 and report to the Constitutional Committee on 7 October 1996 and the Constitutional Assembly on 11 October 1996.
- 3.5 Before the work of the subcommittees commenced parties would prepare submissions, technical advisors would begin their work and bilateral meetings between parties could take place.
- 3.6 It was agreed that the executive director would reconvene the technical advisors previously engaged.
- 3.7 It was agreed that discussions should take place with the Constitutional Court in order that the certification process could be completed in 1996.

4 AOB

4.1 **Administration**

Mr Ebrahim noted that Ms Sparg would be leaving the Constitutional Assembly administration this week. The Chairperson thanked her and Ms Zondo, who has also taken up a new post, for their significant contributions to the work of the Constitutional Assembly.

5 CLOSURE

The meeting closed at 09h30.

MEMORANDUM

MC/11/30Oct96

To: Members of the Management Committee

From: HASSEN EBRAHIM
Executive Director

Date: 3 October, 1996

Subject: Proposal on Process

Decisions Required

1. Pursuant to the resolution of the Constitutional Assembly of 7 May, 1996, two documents were distributed to political parties dealing with matters of technical refinement. This meeting should confirm that the proposed refinement could be incorporated into the final text.
2. This meeting is required to confirm whether substantial progress has been made in the sub committees for purposes of reporting to the Constitutional Committee on 7 October.
3. The meeting of the Constitutional Committee of 7 October is required to confirm the agreements on the formulations reached in the sub committees. These formulations may require further refinement. Authority is required for this to take place.
4. The Constitutional Assembly sitting scheduled for 11 October should consider and discuss a report from the Constitutional Committee regarding the proposed amendments. With regard to process, it is recommended that a resolution be tabled for adoption confirming the amendment of the text adopted on 8 May.
5. The Chairpersons should be mandated to attend to the process of certification.
6. The Chairpersons should be mandated to address the question of the CA Legacy Project, the winding up of the Administration, the Signing Ceremony and the public launch of the final constitution. In this regard, the question of further meetings of the Management Committee should also be addressed.

