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CONSTITUTIONAL ASSEMBLY

**THEME COMMITTEE 2
STRUCTURE
OF GOVERNMENT**

7 NOVEMBER 1994

ROOM M 515

DOCUMENTATION

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 2 STRUCTURE OF GOVERNMENT

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

Date: Monday 7 November 1994

Time: 08h00 - 10h00

Venue: Room M515

AGENDA

1. Opening and Welcome
2. Apologies
3. Theme Committee Minutes (31/10/94) (p3-5)
4. Core Group Minutes (2/11/94) (p6-10)
5. Matters Arising
6. Submissions
7. Core Group Report
 - (a) Theme Committees 2, 5 and 6 Core Groups (p11-13)
 - (b) Work Plan (p14-17)
8. Any Other Business
9. Closure

[NB: ALL MEMBERS ARE REQUESTED TO BRING TO THE MEETING COPIES OF THE CONSTITUTION, THE STANDING RULES OF THE CONSTITUTIONAL ASSEMBLY, THE ORIGINAL REPORT ON WORK PLAN AND THIS PARTICULAR DOCUMENT]

**H EBRAHIM
EXECUTIVE DIRECTOR:
CONSTITUTIONAL ASSEMBLY**

If you have been appointed as an alternative member of the committee, please discuss your participation in the meeting with your chief whip.

Enquiries: Ms N Cetywayo & Ms P Fahrenfort, Room CS211 (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 the 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

3.2 The meeting adopted the report subject to the following amendments:

- i) "Types of experts" required [Item J of Work Plan] be deleted
- ii) Electoral systems overlap with Theme Committee 1
- iii) A separate commission be appointed for the electoral systems

3.3 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

3.4 Electoral Systems

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

3.5 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.

3.6 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.

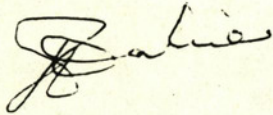
3.7 Separate reports to be submitted

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

3.8 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.

A handwritten signature in cursive script, appearing to read "J. B. ...".

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 2 STRUCTURE OF GOVERNMENT

MINUTES OF THE FIFTH CORE GROUP MEETING WEDNESDAY 2 NOVEMBER 1994 : 08H00

PRESENT

MJ Mahlangu (Chairperson)

Ebrahim G
Eglin CW
Groenewald PH
Rabie JA

APOLOGIES

Ndlovu VB

ABSENT

Pahad EGH

N Cetywayo and P Fahrenfort were in attendance

1. OPENING AND WELCOME

The meeting was opened and chaired by Mr Mahlangu.

2. MINUTES

The minutes of 27 October 1994 were adopted.

3. MATTERS ARISING

None.

4. WORK PLAN AND SUBMISSIONS

4.1 Theme Committee 2 : Work Plan Report

The Core Group had before it a revised version of Theme Committee 2 Work Plan Report submitted by Mr Eglin. That is, items **A** to **F** were revised and items **G** to **J** remain as is. What follows is the revised version as adopted by the Core Group. It was agreed that it be placed on the agenda for Monday's meeting.

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

- Separation of Powers
- Structure of Government
 - i) National including Parliament and the Executive
 - ii) Provincial
 - iii) Local
- Electoral System including participation of minority parties in the legislative process
- Traditional Authorities
- Volkstaat
- Amendments to the Constitution

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

- Separation of Powers
- Structure of Provincial Government (Const. Sec 161)

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

- Separation of Power
 - Judiciary (5)
 - Specialised structure of Government (6)
- Structure of Government
 - Provincial Government (3)
 - Local Government (3)
- Electoral System (1)
- Traditional Authorities (5.6)
- Volkstaat (5.6)

D. Which constitutional issues need to be dealt with in commissions?

- Commission
Electoral System
- Committees
Separation of Powers
- Structure of Government
 - i) National
 - ii) Provincial
 - iii) Local
- Traditional Authorities
- Volkstaat

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

Each of the above (D)

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

(Deadlines to be established and especially for Separation of Powers)

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, Volkeenheid 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

i) 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

It was also agreed that submissions be placed on the agenda for Theme Committee 2 on Monday 7 November 1994.

5. CLOSURE

The meeting rose at 08h17.

 M. J. MATHWANGU

CONSTITUTIONAL ASSEMBLY

**MINUTES OF A JOINT MEETING OF CORE GROUPS OF THEME
COMMITTEES 2, 5 AND 6**

THURSDAY, 3RD NOVEMBER 1994

PRESENT

Kgositsile, B (Chairperson)

Theme Committee 6:

De Beer, S
Dyani, Z D
Hlengwa, I M W
Jordaan, J A
Powell, P
Vadi, I

Theme committee 2:

Groenewald, J
Pahad, E
Rabie, J

N Cetywayo, K McKenzie, N Nyoka, N Taft and E van Eck were in attendance.

1. OPENING AND WELCOME

1.1 Ms Kgositsile opened the meeting and welcomed the members.

1.2 It was noted that the Core Group of Theme Committee 5 was not present. The Managing Secretary of Theme Committee 5, Mr Taft, conveyed the apologies of the Core Group.

2. Decisions of the joint Core Group meeting of Theme Committees 2, 5 and 6 of 27 October 1994 revisited.

2.1 It was agreed that a number of problems had arisen in the convening of the first meeting and that it had not been representative. It was agreed that everything possible would be done to avoid this in future.

2.2 It was noted that the mandate of the proposed joint commission

dealing with traditional leaders was not clearly defined.

2.3 It was agreed that a joint Commission of Theme Committees 2, 4, 5 and 6, with the assistance of technical experts, be appointed to hear evidence from all interested parties and to report to the relevant Theme Committees. This definition of the Commission should replace that outlined in the previous meeting in item 2.3. (See attached minutes).

2.4 It was agreed that the Commission should be established before the end of the year.

3 CLOSURE

The meeting rose at 09:40.

Minutes signed by the Chairperson *Baleka* on 3-11-94

CONSTITUTIONAL ASSEMBLY

MINUTES OF A JOINT MEETING OF CORE GROUPS OF THEME COMMITTEES 5, 6 AND 7 WEDNESDAY 26TH OCTOBER 1994 AT 08H00

PRESENT: (D. Schutte, Chairperson)

Dyani Z.D.
Ebrahim G
Hlengwa I M W
Ngwane L
Rabie J

In attendance: Cetwayo N, Fahrenfort P, Nyoka N, Taft N, Van Eck E.

1. OPENING AND WELCOME

- 1.1 The meeting was opened by Mr. D. Schutte who chaired the meeting.
- 1.2 The purpose of the meeting was to establish areas of overlap between Theme Committees 2, 5 and 6 with regard to Traditional Leaders.

2. CONSULTATION OF TECHNICAL EXPERTS RE TRADITIONAL LEADERS

- 2.2 The committee consulted the Constitutional Assembly document dated 2nd September 1994 containing the resolutions on the establishment of Theme Committees. The following interpretations were agreed to:-
 - 2.2.1 Theme Committee 2 - Structure of Government - Point 2.10 would be interpreted to mean to represent Traditional Leaders in structures of government apart from Traditional structures.
 - 2.2.2 Theme Committee 5 - Judiciary and Legal Systems - Point 5.2 interpreted to mean Indigenous Law and Point 5.4 interpreted to mean Tribal Courts.
 - 2.2.3 Theme Committee 6 - Specialised Structures of Government - Point 6.7 interpreted to mean Traditional Tribal Authorities, i.e. Tribal Structures of Government.
- 2.3 It was agreed that a joint commission consisting of all 3 Theme Committees be appointed to hear evidence from Traditional Leaders and other relevant bodies.

3. CLOSURE

The Meeting rose at 08h25

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 2 STRUCTURE OF GOVERNMENT

CORE GROUP REPORT ON THE WORK PLAN

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