

REPUBLIC OF SOUTH AFRICA

.....

CONSTITUTIONAL ASSEMBLY
ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

.....

MONDAY, 20 FEBRUARY 1995

1. STRUCTURES OF THE CONSTITUTIONAL ASSEMBLY

1.1 CONSTITUTIONAL COMMITTEE

1.1.1 The Constitutional Committee has met on two occasions since the last sitting of the Constitutional Assembly - 30 January and 13 February 1995. A further meeting is scheduled for 27 February 1995.

1.1.2 A Sub-Committee was appointed to develop a short-list of candidates for appointment to Technical Committees. The Sub-Committee's report was considered and Technical Committees were appointed in terms of the recommendations.

1.1.3 Discussions were also held and decisions taken with regard to the Work Programme and Public Participation Programme. A Drafting Procedure proposal was forwarded to the Management Committee for finalisation.

1.1.4 The meeting of 13 February 1995 received reports on Block One of the Work Programme from two Theme Committees and progress reports from others. This was the first opportunity at which the Constitutional Committee was able to address various Theme Committee reports dealing with substantive matters. It was agreed that the Management Committee needed to consider a format for Theme Committee reports.

1.2 MANAGEMENT COMMITTEE

The Management Committee has continued to meet regularly to attend to matters of process.

1.3 THEME COMMITTEES

- 1.3.1 All Theme Committees have been meeting regularly and have held various successful workshops, seminars and hearings.
- 1.3.2 The first reports on substantive matters were tabled for discussion by the Constitutional Committee on 13 February 1995.
- 1.3.3 With the appointment of Technical Committees, Theme Committees have as at 7 February 1995 had the benefit of technical experts to assist in their work.
- 1.3.4 The Constitutional Committee of 13 February 1995 agreed that there were no substantive reports to table for the Constitutional Assembly yet. However, it was agreed that the Constitutional Assembly would receive an informal briefing from Theme Committees at the sitting of 20 October 1995.

2. PROCESS

2.1 WORK PROGRAMME

- 2.1.1 The Constitutional Committee of 2 December 1994 received reports from Theme Committees on their work programmes. These were compiled into a comprehensive work programme.
- 2.1.2 This work programme was broadly accepted. Law Advisers were however requested to reconsider the details thereof to ensure further consistency and logical coherence.
- 2.1.3 A revised work programme was tabled early in 1995, and forwarded to Theme Committees for their consideration.
- 2.1.4 With the exception of a few adjustments, the revised work programme was accepted by Theme Committees.
- 2.1.5 It is emphasised that this work programme is flexible and will need regular evaluation and adjustment where required.

2.2 PUBLIC PARTICIPATION PROGRAMME

- 2.2.1 The Community Liaison Section of the above programme got off the ground with a successful launch at Paarl on Saturday 11 February 1995 at a meeting of residents and farmworkers addressed by the Chairpersons. Members of political parties represented in the CA were also on stage.

**CONSTITUTIONAL ASSEMBLY
INTERNAL MEMORANDUM**

3 April 1995

To Edward

Re : CPM's and Management Committee

Am I correct in understanding that the next CPM's now take place on Saturday 6 May ? You will no doubt have noted that the MC was quite explicit in its decision on the next phase of CPM's in that it stipulated that the Administration be given the mandate to begin the necessary preparatons and plans "on the understanding that the Administration reports to the Management Committee on the particulars of each event in good time. "

15.4.95

This will mean we must prepare a report for MC with details for the CPM's after recess. It would be useful if this report were ready before the end of April. If not, the MC could cause delay again and frustration all round for everyone. I would advise that we prepare a report for the MC as soon as possible after recess i.e. in the week 18 - 21 April as this will give you soom leeway in the following week from 24 - 28 April to accomodate any changes the MC wants to make.

Please discuss with your dept. and let me know what is possible and what your plans are. Thanks.

Marion

**Marion Sparg
Deputy Executive Director**

p.s. It would seem the report should include dates, venues, structure of meeting, participants, agenda item.

~~Specific CPM's Just on Traditional leaders - Robbie - NTM ??~~
~~18/4 - Man Com for CPM~~
~~6 + 13 CPM's~~

4.3.3 The appointment of Technical Committees has proved to be beneficial to the efficiency of Theme Committees. Technical Committees have two distinct functions; to assist the Theme Committee in the development of its reports and general work, and to assist the Constitutional Committee in producing the first draft formulations. These two tasks are separate and distinct.

4.3.4 To assist the Constitutional Committee an explanatory memorandum should also be attached to the draft text. Such a memorandum could assist the Constitutional Committee with regard to the technical aspects of any area of contention.

4.3.5 In keeping with the agreed drafting procedure, it is recommended that Technical Committees act in close consultation with the Constitutional Assembly Law Advisors in the production of these formulations and memoranda.

4.4 Public Participation Programme

4.4.1 It is suggested that as between 27 April and 25 June 18 Constitutional Public Meetings be held. These meetings are included in the draft schedule. (A further schedule of the Public Participation Programme in annexed hereto marked "E".)

4.4.2 It is strongly recommended that a mandate be given to the Administration so that the necessary preparations and plans could be initiated.

4.4.3 It is necessary that at each of the Constitutional Public Meetings representatives of the various organisations of civil society and other formations be properly represented and be invited to make submissions. Keeping a register of these attendances may prove helpful.

4.4.4 The approved schedule should be presented to members of the media timeously with an invitation and arrangements to be made for those who wish to attend.

4.5 Management Committee

It is recommended that the Management Committee needs to analyse Theme Committee reports and identify specific issues for debate in

2.1.2 The total cost of these events was R260 067.81. (A detailed account is annexed hereto marked "A".)

2.1.3 There are however a number of legitimate concerns about these activities. Some of these relate to:-

- a) The need for more effective preparations and planning. Because mandates for particular meetings were given piecemeal, this has allowed for too short a lead time in preparations for each of these meetings;
- b) Better and more efficient logistical and travel arrangements for members;
- c) Representatives of the affected communities to be given a greater profile at these events and be specifically invited to make submissions;
- d) Cost effectiveness and ability to reach out to more people;
- e) Better media coverage. Few journalists have been prepared to travel to those meetings in rural areas. Hence, there has been little or no media coverage of these meetings.

2.2 Public Hearings and Workshops

In addition to the above, a large number of workshops and public hearings involving members of the public and organisations representing different interests were also held. (A schedule of events and activities is annexed hereto marked "B".)

2.3 Submissions

Nearly 4000 submissions have been received. Since not all the submissions received relate to those agenda items under discussion, the total number has not been reflected in the table above. A survey of the sources and authors of these submissions reveal the following:-

- a) These submissions were tabled by political parties and civil society organisations representing a significant proportion of the population;

Evaluation

See Secretariate

See Secretariate

- b) The large majority of submissions are made by ordinary people particularly from the disadvantaged communities. The submissions are made in all official languages;
- c) Many submissions are made by organisations mandated by a large number of members.

(An index of the submissions is annexed hereto marked "C".)

3 Media Liaison

The strategy to raise public awareness through the usage of the mass media has been extremely successful. This strategy saw the adoption of the following forms:-

- a) Television, Radio and Print - adverts have been largely responsible for the steady flow of more than 100 submissions daily;
- b) Constitutional Talk - is being produced in all official languages and the circulation has steadily increased to a mail list of more than 40 000;
- c) Brochures;
- d) Television Programmes - arrangements are nearly finalised to screen 12 programmes on NNTV and repeated on CCTV with sponsorships paying for more than 80% of the costs.

While a good working relationship has been established with the media, there is some concern about the lack of regular press briefings on progress being made in the various Theme Committees. There is also a marked lack of publicity marketing the successes of the Constitutional Assembly.

4 Recommendations

4.1 Existing schedule needs to be revised

A revised schedule needs to be developed. The schedule should indicate clear deadlines for submissions and tabling of reports. We also need to take into account the amount of hours allocated to Theme Committee meetings and the time required for orientation workshops prior to each block. Another suggestion could be to change the slots for Theme Committee and Constitutional Committee eg. Theme Committee afternoon sessions - 13h30 - 17h30; CC -

CONSTITUTIONAL ASSEMBLY

AMMENDED REPORT FROM THEME COMMITTEE 1 15 FEBRUARY 1995

I) INTRODUCTION:

A preliminary report was completed by the sub-committee together with the technical experts. The latter were given the task to extract contentious and non-contentious points from party submissions pertaining to Block 1.

After debate and modification at the Theme Committee meetings of the 8th and 9th February 1995, we are pleased to report that the Theme Committee was able to find consensus on the following eleven points as embodying the character and nature of a democratic state.

II) NON-CONTENTIOUS POINTS:

- A) The Constitution shall be the supreme law of the land. It shall be binding on all organs of state at all levels of government.
- B) There shall be a multi-party political system, premised on regular elections, universal adult suffrage and a common voters' roll.
- C) Fundamental rights of the person shall be protected in an entrenched Bill of Rights, justiciable by an independent judiciary.
- D) The normative values underlying the Constitution shall be accountability, democracy, equality, freedom and transparency.
- E) There shall be a common South African citizenship.
- F) Elections shall proceed, in general, on the basis of proportional representation. The possibility of constituency representation shall be explored.
- G) * South Africa shall be a sovereign, independent and undivided state.
- H) There shall be three levels of government i.e. National, Provincial and Local.
- I) There shall be separation of legislative, executive and judicial powers in the State.
- J) The Executive shall be accountable to Parliament.

- K) The recognition and protection of collective rights of self-determination in forming, joining and maintaining organs of civil society, including linguistic, cultural and religious associations, on the basis of non-discrimination and free association, and possible constitutional provision for a notion of the right to self-determination by any community sharing a common cultural and language heritage, whether in a territorial entity within the state or in any other recognized way.

The following points were identified as contentious points:

III) **CONTENTIOUS POINTS:**

- A) The nature (legislative, executive, administrative and judicial) and extent of the powers of the various levels of government.
- B) Whether Parliament shall be bi- or unicameral in structure.
- C) Parliament's supremacy as a law-maker.
- D) The nature and extent of representation and rights of cultural and linguistic minorities, including group self-determination.
- E) The constitutional entrenchment of minority party participation in government.
- F) Government shall be by majority rule.
- G) The content and constitutional entrenchment of participatory democracy.
- H) South Africa shall be a secular state.

The IFP announced that it rejected the form and content of the preliminary framework document. The IFP also announced that it viewed the entire preliminary report as being contentious and tabled a document in this regard. Noting that the thrust of the said party's document constituted a frontal assault on the entire constitution making process, the meeting resolved to proceed with the process of identifying contentious and non-contentious issues. The meeting further agreed that the report to the Constitutional Committee should be accompanied by the document dated the 9 february 1995, from the IFP.

* It was resolved at the Core Group meeting, held on the 10 February 1995, that Principle G under non-contentious points, shall not anticipate that the State will be structured along Federal or unitary lines nor shall it preclude any party from arguing in favour of Federalism or unitarianism.

- 2.2.2 The Management Committee has finalised the outline of a Community Liaison programme. This programme consists of three sections : launch rallies, constitutional public meetings and hearings and Theme Committee workshops, seminars etc
- 2.2.3 The first round of constitutional public meetings are being planned for February and March in all nine provinces. Consultation has taken place with Premier's Offices with regard to venues.
- 2.2.4 The Management Committee has emphasised that venues must be biased towards rural and disadvantaged communities.
- 2.2.5 The major part of community liaison thus far has consisted of a host of hearings and workshops which have taken place at the request of various Theme Committees. Further events of this kind are being planned and are ongoing.
- 2.2.6 Media has had a successful start in 1995 with the first "burst" of a multi-media advertising campaign and the launch of the official bulletin of the CA, " Constitutional Talk". Three issues of the bulletin have been published to date.

2.3 SUBMISSIONS

- 2.3.1 The response from the public to the invitation to make submissions has been overwhelming. Precise statistics are not yet available. It can however be estimated that at least 700 submissions have been received from the beginning of the year.
- 2.3.2 These submissions are processed by the Administration and forwarded to Theme Committees for their consideration. Three volumes of submissions have been forwarded to Theme Committees to date.
- 2.3.3 The submissions are also indexed and forwarded to the CA DataBase Project at UCT where they will be scanned onto a database. This project is about to get off the ground.
- 2.3.4 The Management Committee has expressed concern that Theme Committee reports received thus far, do not contain reports on the substance of public submissions. Theme Committees have been requested to include these in future reports, and to list all submissions from individuals and organisations by name.

2.4 DRAFTING

- 2.4.1 The Management Committee of 10 February 1995 adopted a drafting

procedure. The meeting noted the objection of the IFP.

2.4.2 The details of this drafting procedure are being forwarded to Theme Committees.

2.4.3 The principles which guide the procedure are that political decision-making should guide the process as a whole and that the new constitutional text should be drafted in a simple language that can be understood by all.

2.4.5 The drafting process will involve members of Technical Committees, the Law Advisers and the Panel of Experts.

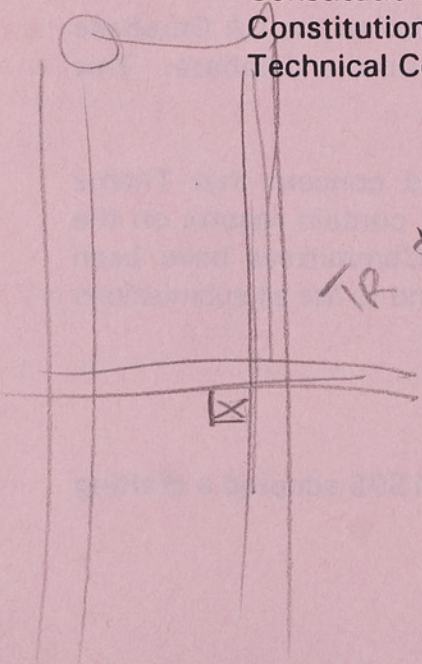
3. AMENDMENT OF RESOLUTION OF 31 OCTOBER 1994

3.1 The Constitutional Committee meeting of 30 January 1995 adopted the recommendation of the Management Committee with regard to the appointment of Technical Committees. It agreed to :

- a) increase the number of experts to be appointed to the Technical Committees of Theme Committees One to Five respectively, from three to four, and
- b) appoint two experts to the Technical Committees of each Sub-Theme Committee of Theme Committee Six.
- c) appoint ad hoc Technical Committees to deal with the issues of Traditional Leaders, Self-determination and Local Government, made up three experts respectively.

3.2 Consequently a resolution of the Constitutional Assembly ratifying the Constitutional Committee decision and amending the resolution of the Constitutional Assembly of 31 October 1994 on the composition of Technical Committees is required.

*Hildebrandt
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