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CONSTITUTIONAL ASSEMBLY

**THEME COMMITTEE 2
STRUCTURE
OF GOVERNMENT**

24 October 1994

Room M46

DOCUMENTATION

CONSTITUTIONAL ASSEMBLY

MEETING OF THEME COMMITTEE 2

STRUCTURE OF GOVERNMENT

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

Date: Monday, 24 October 1994

Time: 10h00 - 11h30

Venue: Room M46

AGENDA

1. Opening and Welcome
2. Them Committee Minutes (19/994)
3. Core Group
 - i) Minutes (19/9/94)
 - ii) Report (23/9/94)
 - iii) Minutes (20/10/94) to follow
4. Matters arising
5. Work Programme
6. Any other business
7. Closure

NB: ALL MEMBERS ARE REQUEST TO BRING TO THE MEETING COPIES OF THE CONSTITUTION AND THE STANDING RULES OF THE CONSTITUTIONAL ASSEMBLY

[Theme Committee 2 : 24 October 1994]

**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
MINUTES OF
FIRST MEETING OF
THEME COMMITTEE 2
STRUCTURE OF GOVERNMENT
MONDAY 19 SEPTEMBER 1994 (AT 14H00)**

PRESENT

Ackermann C
Bester B
Beyers AS
Doidge GQ
Ebrahim AG
Eglin CW
Foster JA
Groenewald PH
Holomisa SP
Ligege MG
Louw SK
Maduna PM
Mahlangu MJ

Mahlangu JL (Alternate)
Marshoff FB
Moloto CP
Msomi M
Mushwana GM
Ndlovu VB
Nwendamutsu MJ
Nxumalo SD
Oliphant D
Pahad EGH
Rabie JA
Steenkamp PJ
Taunyane DP

P Lillienfeld, T Mngadi-Kgosidintsi and N Cetywayo were in attendance.

1. OPENING AND WELCOME

- 1.1 The meeting was opened by Mr Lillienfeld who chaired in terms of Rule 25 of the Standing Rules.
- 1.2 An immediate concern was expressed at what language members were free to use in meetings. It was agreed this matter would be referred to the Constitutional Committee.
- 1.3 Some discussion ensued on the format of minutes of meetings. It was agreed this matter would also be referred to the Constitutional Committee.

2. APPOINTMENT OF CORE GROUP

The following members were appointed :

- * Ebrahim G (PAC)
- * Eglin CW (DP)
- * Groenewald P (FF)
- * Mahlangu MJ (ANC)
- * Ndlovu VB (IFP)
- * Pahad EG (ANC)
- * Rabie J (NP)

3. APPOINTMENT OF CHAIRPERSONS

3.1 The following members were appointed :

- * Mahlangu MJ
- * Ndlovu VB
- * Rabie J


3.2 It was agreed Mr Mahlangu would assume the chair for the present meeting.

4,5,6,7

Discussion on all of these items was referred to the core group.

8. CLOSURE

The meeting rose at 14h50

 M. J. Mahlangu

**CONSTITUTIONAL ASSEMBLY
MINUTES OF FIRST MEETING
OF CORE GROUP
THEME COMMITTEE TWO
MONDAY 19 SEPTEMBER 1994 (AT 15H00)**

PRESENT

Ebrahim G
Eglin CW
Groeneweld P
Mahlangu MJ
Ndlovu VB
Pahad EG
Rabie J

P. Lillienfeld, T Mngadi - Kgosidintsi and N Cetywayo were in attendance.

1. OBJECTIVES OF THE THEME COMMITTEE

- 1.1 It was agreed that the co-chairpersons should meet with the Constitutional Committee (CC) to get a clear understanding about this item.
- 1.2 It was further agreed that this item will be placed on the agenda for the next committee meeting on 17 October and that the clarification document will be tabled to this meeting.

2. PROGRAM OF WORK

- 2.1 It was noted that the Commissions and Technical Committees need to be established as a matter of urgency.
- 2.2 The core group agreed that committee members should engage the public especially the so called "silent groups" such as women and rural communities.
- 2.3 It was agreed that the core group should seek permission from CC to place its own advertisement.

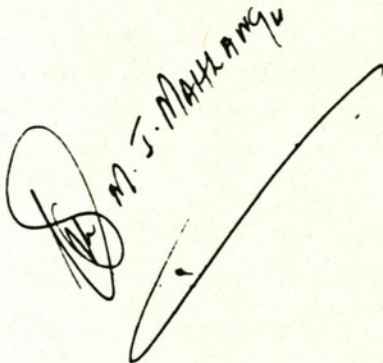
- 2.4 It was agreed that the proposal for a press conference be tabled at the next committee meeting, 24 October 1994.

3. SUBMISSIONS RE: 2 ABOVE

A concern was raised that the deadline for submissions by interested parties needed to be extended by the CC. It was agreed that this issue will be dealt with at the next theme committee meeting on the 24 October 1994.

4. AGENDA FOR THE NEXT THEME COMMITTEE MEETING

- 1 General discussion on the objectives of the Committee
2. General discussion on the programme of work
 - * identify aspects of the theme requiring specific attention
 - * consider report on submissions received and consideration of the process of involving the broader public
 - * time frame
 - * rules
 - * Technical and Expert assistance that would be required.
3. Invite parties to make submissions re: 2 above.


M. J. MAHONEY

**CONSTITUTIONAL ASSEMBLY
REPORT OF CORE GROUP
MEETING OF
THEME COMMITTEE 2
STRUCTURE OF GOVERNMENT**

1. INTRODUCTION

The core group for the Theme Committee met for the first time on 19 September 1994.

2. CHAIRPERSONS

The following members were appointed in the theme committee meeting of the 19 September 1994:

- * Mahlangu MJ
- * Ndlovu VB
- * Rabie J

The core group appointed Mr J Rabie the chairperson of the next Theme Committee meeting on the 24 October.

3. OBJECTIVES

After a long discussion it became clear that this issue was not clearly understood by the core group. It was agreed that the co-chairpersons should meet the Constitutional Committee for a clear understanding of the objectives of the Theme Committee. It was further agreed that the clarification document from the meeting between the co-chairpersons and the Constitutional Committee will be tabled to the next Theme Committee on 24 October for discussion and adoption.

4. PROGRAMME OF WORK

- 4.1 The core group agreed that members of the Theme Committee should consider going to the public especially the so called "Silent Group" such as women and rural communities. It was agreed that the proposal for a press conference be tabled before the next theme committee meeting on 24 October.
- 4.2 The core group noted that commissions and Technical Committees need to be established as a matter of urgency.

(Core Group-23 September 1994)

The core group welcomed its task with great enthusiasm and they all seemed to be looking forward to working with each other. Some issues like the objectives of the theme committee could not be dealt with confidently due to lack of clarity.

CONSTITUTIONAL ASSEMBLY

TELEPHONE: (021) 403 2252
FAX: (021) 461 4339
INTERNATIONAL: (27) 21 403 2252
FAX: (27) 21 461 4339

PO Box 15
CAPE TOWN 8000
REPUBLIC OF SOUTH AFRICA

REF No:

TC/1/18.10.94

18 October 1994

MEMORANDUM

To : **Members of Theme Committees**

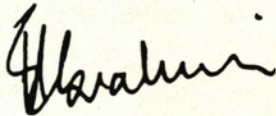
From : **Hassen Ebrahim
Executive Director**

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

THEME 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.