

2/21/56

**CONSTITUTIONAL
ASSEMBLY**

**MANAGEMENT
COMMITTEE**

**THURSDAY
29 FEBRUARY 1996
(08h00)
V16**

DOCUMENTATION

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CONSTITUTIONAL ASSEMBLY

MEETING OF THE MANAGEMENT COMMITTEE

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

Date : Thursday 29 February 1996

Time : 08h00 - 10h00

Venue: V16

AGENDA

1. Opening
 2. Minutes: *Pages 2 - 6*
 3. Matters Arising: See Agenda Item Below
 4. Evaluation
 5. AOB
 6. Closure
-

N.B. Please bring to the meeting your copy of the Management Committee documentation pack for 15 February 1996.

**H EBRAHIM
EXECUTIVE DIRECTOR
CONSTITUTIONAL ASSEMBLY**

Enquiries: Ms M M Sparg, Tel 245-031

CONSTITUTIONAL ASSEMBLY

MINUTES OF THE MANAGEMENT COMMITTEE MEETING THURSDAY 22 FEBRUARY 1996

PRESENT

RAMAPHOSA M C (CHAIRPERSON)

Chabane O C
Eglin C W
Meshoe K R
Meyer R P
Moosa M V

Myakayaka-Manzini M
Sizani R K
Van Breda A
Viljoen C
Wessels L (Deputy Chairperson)

Absent: P F Smith.

In Attendance: H Ebrahim, P Lilienfeld, M Sparg, and M Keegan.

1. OPENING

The Chairperson opened the meeting at 08h07 and the meeting approved the agenda.

2. MINUTES

The meeting adopted the Minutes of the Management Committee Meeting of Thursday 15 February 1996.

3. MATTERS ARISING

None - included in agenda items below.

4. EVALUATION

4.1 Mr. Ramaphosa introduced the document entitled "*Proposals on Process*," included in the Documentation for the 15 February 1996 Meeting of the Management Committee.

4.2 The meeting agreed with the broad outlines of the programme contained in the document, subject to the need for flexibility.

4.3 The following points were raised in discussion:

4.3.1 Mr Meyer of the NP said the CA should continue to work towards completing by 9 May. However, he said it would be

necessary to evaluate progress on an ongoing basis to ensure that we keep to scheduled activities. He proposed 14 March as the date for a further evaluation by the Management Committee, and reminded the meeting of the following concerns raised by Mr Van Breda in the previous meeting:

- i. Annexure 3 of the *"Proposal on Process"* be considered thoroughly, and
- ii. Greater clarity be given on the meaning of *"passed,"* as suggested by the Panel of Experts in paragraph 2.3 of Annexure 4 of the *"Proposal"* .

He said, finally, further clarity was needed on what the "position" of the constitution, itself, would be, should the Constitutional Court not certify it.

4.3.2 Mr. van Breda of the NP expressed concern that additional time might be needed in case the proposed constitutional text did not acquire the two thirds majority required for passing and needed to be referred to the Panel of Experts, as provided for in section 73(3) of the Interim Constitution.

4.3.3 Mr. Moosa of the ANC agreed with the process outlined in the document and said all indications are that the CA would meet the 9 May deadline. However, he said the ANC would like to suggest amendments to the process from time to time. He raised two concerns:

- i. The CA needed to seriously consider whether it wanted to make use of the Panel to mediate, as provided for in Section 73(3). He said it may be necessary to commence with adoption earlier than provided for in the present schedule, to ensure the CA was able to make use of this facility within the 8 May time frame; and
- ii. The CA needed to consider what would happen if the Constitutional Court did not certify the final constitution. He said this was an open question. Whilst there were no immediate answers, the way the CA dealt with this question may require it to look at the process again.

4.3.4 Ms Myakayaka-Manzini of the ANC said that it appeared the CA would need more days towards the end of April, if the CA were to sit for 12 full days for adoption purposes, as suggested in page 8 of the *"Proposal"*. She also asked whether the Panel would need a full 30 days to provide a compromise draft,

should the CA make use of the facility provided for in Section 73(3).

4.3.5 Mr. Viljoen of the FF agreed that the Management Committee evaluate progress again on 14 March. He said that the Law Advisors needed to provide clear advice on this occasion, on how to extend the constitutional deadline, in case the meeting decided that more time was needed.

4.3.6 Mr. Eglin of the DP raised the following issues:

- i. The proposed schedule was fine if the CA continued to progress with its work. However, no provision appeared to have been made for contingencies;
- ii. The programme should provide for more sittings of the CA earlier in April, to consider a penultimate draft of the constitution. Having approved of the document at a conceptual level, the CA could then ask the Constitutional Court to consider this draft to give a preliminary view, before final adoption procedures commenced;
- iii. Further clarity was needed on adoption procedures; and
- iv. The CA needed to conduct its own evaluation, to satisfy itself that it had complied with the Constitutional Principles.

4.3.7 In response to the suggestion that the Constitutional Court be asked to provide a preliminary view on the draft constitution, Mr. Ramaphosa said that the Interim Constitution did make provision for this. However, the Constitutional Court had expressed a clear preference for considering the entire constitution in a formal hearing, after the Constitutional Assembly passed it. The Constitutional Court had provisionally set aside four weeks in June to do this.

4.3.8 Mr Chabane of the ANC, supported by Mr Sizani of the PAC, asked for a legal opinion on whether the CA was bound to maintain the existing nine provinces. However, the Chair said that the Constitution was clear on this matter. He asked political parties to study the relevant provisions and assess at the next meeting, whether legal opinions were necessary.

4.3.9 Mr Chabane of the ANC also drew the meeting's attention to Section 73(2) which provided that text relating to the

boundaries, powers and functions of provinces shall not be considered passed by the CA unless approved also by a majority of two-thirds of all the members of the Senate.

4.3.10 Mr Ebrahim responded that this could be provided for in the proposed adoption programme, by ensuring a separate count of votes by members of the Senate.

4.3.11 The Chairperson concluded as follows:

- i. Good progress was being made on resolving outstanding issues, and the CA needed to ensure that it reached agreement on all issues within the next four weeks;
- ii. The programme contained in the document was accepted in broad outlines, but parties needed to be given further opportunity to look at it again; and
- iii. The Management Committee would meet on 29 February to look at how the schedule would be re-worked and to consider fresh ideas on how the procedures mentioned might fit into the programme.

5. PROVINCIAL BOUNDARIES

The meeting noted the document entitled, "*Provincial Boundaries*," tabled at the meeting, and agreed to forward it to the Constitutional Committee Subcommittee for its consideration.

6. ANY OTHER BUSINESS

6.1 REPORT BACK ON MEETING WITH THE WHIPS

6.1.1 Mr. Wessels reported that the Whips had agreed that, with the exception of a few days, the month of April could be used by the Constitutional Assembly.

6.1.2 The meeting agreed, however, that the Constitutional Assembly might need about six additional days in the second half of March.

6.2 INVITATION FROM THE DUTCH EMBASSY

The meeting noted the correspondence entitled, "*Royal Netherlands Embassy*," tabled at the meeting.

7. CLOSURE

The Chairperson closed the meeting at 08h52.

