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SECOND MEETING

of the

MANAGEMENT COMMITTEE

1st September, 1994

Room 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, 1 September 1994
Time : 09h00
Venue: Room V16 (Old Assembly Wing)

AGENDA

1. Minutes of previous meeting
2. Matters arising out of Minutes
3. Consideration of draft report of Constitutional Committee to Constitutional Assembly
4. Appointment of Panel of Constitutional Experts

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 M M Sparg, Room CS107 (tel 403-2258)

CONSTITUTIONAL ASSEMBLY

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

FRIDAY, 2ND SEPTEMBER 1994

COMMITTEE REPORTS:

REPORT OF CONSTITUTIONAL COMMITTEE: CONSTITUTIONAL ASSEMBLY

1. The Constitutional Committee, having been constituted in terms of Constitutional Assembly Resolution No. 1 adopted on 15 August 1994, met on 22, 25 and 29 August 1994.
2. In terms of Standing Rule 19A(6)(a), the Constitutional Committee appointed a Management Committee, which met on 29 August and 1 September 1994.
3. The Constitutional committee begs to report on -
 - 3.1 The establishment of theme committees; and
 - 3.2 The process and framework for the drafting of the new constitutional text; as follows:-

THE ESTABLISHMENT OF THEME COMMITTEES

1. CHARACTER OF DEMOCRATIC STATE
 - 1.1 Preamble of the Constitution
 - 1.2 Matters dealing with the establishment of a single sovereign state, common citizenship, democracy and equality. (Article 1 of Constitutional Principles)
 - 1.3 Matters dealing with representative government, regular elections, suffrage and proportional representation. (Article VIII of Constitutional Principles)

- 1.4 Matters dealing with freedom of information and accountable administration. (Article IX of Constitutional Principles)
- 1.5 Name and description of State and symbols.
- 1.6 Citizenship and franchise.
- 1.7 Matter dealing with the separation of powers etc. (Article VI of Constitutional Principles)

2. STRUCTURE OF GOVERNMENT

- 2.1 Matter dealing with the separation of powers etc. (Article VI of Constitutional Principles)
- 2.2 The adherence to formal legislative procedures by legislative organs. Article X of Constitutional Principles
- 2.3 Participation of minority political parties in legislative process in manner consistent with democracy. (Article XIV of Constitutional Principles)
- 2.4 Amendments to Constitution require special procedures involving special majorities. (Article XV of Constitutional Principles)
- 2.5 Structure of Government at national, provincial and local levels. (Article XVI of Constitutional Principles)
- 2.6 Democratic representation at every level of government - without derogating from the role of chieftainship. (Article XVII of Constitutional Principles)
- 2.7 National Assembly, the Senate and Parliament in general.
- 2.8 The Electoral System.
- 2.9 Matters dealing with the constitution, status and role of traditional leadership. (Constitutional Principles XIII)
- 2.10 Traditional Leaders.
- 2.11 The Executive.

RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

- 3.1 The details and nature of the relationship. (Article XVI to XXVII of Constitutional Principles)
- 3.2 Local Government in context of Article XXIV of Constitutional Principles
- 3.3 Establishment of Provincial government.
- 3.4 Establishment, status and powers of local government.
- 3.5 Legislative competence of Provinces and concurrency.

FUNDAMENTAL RIGHTS

- 4.1 The enjoyment of fundamental rights by all - entrenchment in Constitution etc. (Article II of Constitutional Principles)
- 4.2 The prohibition of racial, gender etc. discrimination and the promotion of equality and national unity. (Article III of Constitutional Principles)
- 4.3 The supremacy of Constitution, binding on all organs of State. (Article IV of Constitutional Principles)
- 4.4 The diversity of language and culture to be recognised - promotion and encouragement. (Article XI of Constitutional Principles)
- 4.5 The collective rights of self-determination, civil society and free association. (Article XII of Constitutional Principles)
- 4.6 The right to form trade union and collective bargaining. (Article XXVIII of Constitutional Principles)
- 4.7 Community self-determination based on cultural and language heritage. (Article XXXIV of Constitutional Principles)
- 4.8 Protection and enforcement of fundamental rights.
- 4.9 First, second and third, generation of Rights.
- 4.10 Relationship of various Charters of Rights to the Bill of Rights

5. JUDICIARY AND LEGAL SYSTEMS

- 5.1 Matter dealing with qualities of judiciary and enforcement of Constitution. (Article VII of Constitutional Principles)
- 5.2 The institution, status and role of traditional leadership and indigenous law. (Article XIII of Constitutional Principles)
- 5.3 Judicial functions, appointment of judges, Judicial Services Commission and Constitutional Court.
- 5.4 Traditional authorities.

6. SPECIALISED STRUCTURES OF GOVERNMENT

- 6.1 The independence and impartiality of the Public Service Commission, Reserve Bank and the Public Protector. (Article XXIX of Constitutional Principles)
- 6.2 The status and role of public service. (Article XXX of Constitutional Principles)
- 6.3 The performance of functions of police, military and intelligence to be in the national interest. (Article XXXI of Constitutional Principles)
- 6.4 Auditor-General, Reserve Bank and the Financial and Fiscal Commission.
- 6.5 Establishment, powers and function of the Public Service Commission and Public Service
- 6.6 Powers and function of the Public Protector, Human Rights Commission, Gender Commission and the Commission on Restitution of Land Rights
- 6.7 Traditional authorities.
- 6.8 South African Elections Commission (formerly IEC)

NOTE : There are other issues such as transitional provisions and the reception of international law into our domestic law which do not lend themselves very easily to allocation to a Theme Committee will have to be dealt by the Constitutional Committee of the Assembly. Not all of the structures under the Interim Constitution will be relevant under a permanent Constitution. Finally, international and comparative experiences can be discussed under any of the themes identified above.

The above categories are to be treated as a guideline and not adhered to mechanically. Theme Committees may establish Commissions on special topics. It is further proposed that certain principles and topics (for example Article XXXIV of Constitutional Principles dealing with community self-determination) may be discussed in more than one theme committee.

It is also proposed that Theme Committee 1 (Character of the Democratic State) be dealt with as a matter of priority.

THE PROCESS AND FRAMEWORK FOR THE DRAFTING OF THE NEW CONSTITUTIONAL TEXT

1. INTRODUCTION

Set out below are proposals for a broad framework for the constitution-making process. While no firm timescales have yet been recommended, principles for guiding the process are dealt with.

2. GENERAL GUIDELINES

2.1 Open debate in the Constitutional Assembly

2.3.1 All elected representatives in the Constitutional Assembly should be directly involved in the constitution-making process. Open debate will afford members the opportunity to follow the process and participate in it.

2.3.2 A measure of informality during proceedings in the Constitutional Assembly would encourage members to participate in debates. Further recommendations with regard to the structure of debate will be made at the next meeting of the Constitutional Assembly.

2.2 Integrated process

The new constitution should be the result of a process which integrates the ideas of political parties represented in the Constitutional Assembly, civil society and the broader public.

2.3 Transparent Process

Meetings of the Constitutional Assembly and its structures will, subject to the provisions of Rule 17A of the Standing Rules, be open to the public and the media.

3. PROCESS

3.1 Public Participation

3.1.1 There should be a programme for ensuring maximum public participation in the constitution-making process. Mechanisms for promoting public participation, including public forums, distribution of information bulletins and appropriate media strategies, should be employed.

3.1.2 Public forums should be held in all Provinces, specific attention being given to the population in rural and underdeveloped areas.

3.1.3 Some forums would be targeted at specific sectors of the community while others could be broad-based and reach out to all members of the public. Appropriate mechanisms for collecting views at such broad based forums should be employed.

3.1.4 There should be co-ordination in all provinces for the success of the community liaison programme. The Constitutional Assembly will have to work with a network of people, organisations and institutions across the country and facilitate the process of the

effective organisation of public forums. Assistance and co-operation will be sought from the structures of provincial and local government.

- 3.1.5 Members of the Constitutional Assembly will be invited to participate in public forums dealing with various themes and constitutional issues. Schedules for such public forums will be compiled by the Administration after consultation with the Management Committee.
- 3.1.6 The Administration will need to compile regular information bulletins for the purpose of informing the public of the constitution-making process and stimulating their interest and participation.
- 3.1.7 In addition to the canvassing of public views by means of public forums, the Administration is in the process of establishing a liaison desk.

3.2 Media

- 3.2.1 There appears to be general consensus that the new constitution should be a living document that can and must be owned by the people of the country. The media would play a vital role in the process of drafting this constitution. There is therefore a need for a clear media strategy.
- 3.2.2 The underlying principles that should inform the media strategy have already been identified in the debates of the Constitutional Assembly. They are; transparency, democratic accountability and public involvement and participation in the process of drafting a new constitution.
- 3.2.3 In terms of the principle of transparency and democratic accountability, the media is allowed to witness and report on the proceedings of the Constitutional Assembly, the Constitutional Committee, theme committees, commissions and public hearings. In this regard, the media should as far as possible be accommodated at each of these meetings and provided with the necessary documentation.

3.2.4 In addition to reporting on proceedings, the media can and should play a more direct role in the process. This stems from the fact that the media, both electronic and print, enjoy a direct relationship with the public. It may therefore be beneficial to the process to enter into a relationship with the media which would allow it to become an organised forum for the expression of views on the constitution. This would ensure that there is public debate and participation.

3.3 Role of theme committees

3.3.1 Theme committees should be responsible for the in-depth examination of constitutional matters which fall within the scope of the Constitutional Assembly mandate. Theme committees should submit regular reports to the Management Committee for processing and discussion by the Constitutional Committee.

3.3.2 It is suggested that the structure of the theme committee reports will include:

- (a) issues in respect of which there was agreement,
- (b) issues in respect of which there was no agreement, and
- (c) recommendations of the committee.

3.4 Debate in the Constitutional Assembly

The Constitutional Assembly is responsible for finally deciding on the new constitutional text. Its structures exist for the purpose of facilitating the decision-making process of the Constitutional Assembly.

3.5 Processing by the Constitutional Committee

The Constitutional Committee will receive and consider reports of the theme committees to be tabled in the Constitutional Assembly. This will facilitate the decision-making process in the Constitutional Assembly.

4. STRUCTURES

4.1 Constitutional Committee

The Constitutional Committee has been established and has met on three occasions. This Committee has also appointed a Management Committee from amongst its members.

4.2 Management Committee

4.2.1 A Management Committee consisting of 12 members has been established. The composition is as follows; 3 ANC, 2 NP, 1 PAC, 1 ACDP, 1 DP, 1 FF, 1 IFP, the Chairperson and Deputy Chairperson of the Constitutional Assembly.

4.2.2 It is suggested that the Management Committee should attend to process and not substantive issues. Its tasks should also include the following:-

- (a) preparing agendas for Constitutional Committee meetings;
- (b) preparing reports to be considered by the Constitutional Committee;
- (c) co-ordinating the activities of the theme committees;
- (d) co-ordinating the activities of all structures of Constitutional Assembly;
- (e) attending, between meetings of the Constitutional Committee, to the day-to-day management and overseeing of developments in the structures.

4.3 Theme Committees

4.3.1 Theme committees will be made up of thirty Constitutional Assembly members, in accordance with the provisions of Rule 23 of the Standing Rules. The chairperson of a theme committee shall be elected from amongst its members.

4.3.2 Each theme committee should have a core group of no more than 6 or 7 members who will be responsible for managing and co-ordinating the work programme of the theme committee.

4.3.3 Functions of the theme committees will include the following:
(a) Receiving and collating views from the broader community on the constitution.

- (b) Receiving submissions from the political parties.
- (c) Developing and processing these concepts and views.
- (d) Referring processed views for technical drafting.
- (e) Submitting the processed concepts in the form of reports to the Constitutional Committee for debate in the Constitutional Assembly.

4.3.4 A manager and managing secretary will be appointed and allocated to each theme committee and will be responsible for providing it with the necessary support services.

4.3.5 During deliberations, theme committees will have the services of technical experts.

4.4 Technical committees

4.4.1 It is suggested that technical committees should consist of up to three members. Each theme committee should be assisted by a technical committee. However because of the range of issues each theme committee may be required to address, membership of these technical committees may vary from time to time depending on the issue at hand.

4.4.2 The Administration is in the process of compiling a database of legal experts to be used to provide more specialised assistance when required.

4.4.3 The functions of technical committees will be to give technical advice to the theme committees at their meetings and to provide drafting facilities.

4.4.4 Members of technical committees need not be employed on a full time basis.

4.5 Panel of Independent Constitutional Experts

4.5.1 A Panel of Independent Constitutional Experts will be established in terms of the Provisions of section 72 of the Constitution Act No 200 of 1993.

4.5.2 Members of the panel will not function on a permanent basis but will be called upon to give their advice and expertise as and when necessary.

4.5.3 Members of the panel should regularly receive copies of all documents.

4.6 Commissions

4.6.1 Commissions may be appointed by resolution of the Constitutional Assembly, to investigate any specific matter or issue.

4.6.2 The terms of reference of such commission shall be determined by the Constitutional Assembly.

4.6.3 The Administration shall be responsible for providing administrative support services to these commissions.

5. TIME FRAMES

5.1 Having regard to constraints of time, it is recommended that the theme committees be appointed as soon as possible and start functioning at the earliest opportunity thereafter.

5.2 The Constitutional Assembly will, on a continuous basis, consider and review the mandates of theme committees.

6. PROGRAMME OF WORK

6.1 The Constitutional Assembly shall determine its own programme with due regard to the programme of Parliament.

6.2 The Constitutional Assembly and the Constitutional Committee shall meet on alternate Mondays. The Management Committee is presently considering the work programme of the Constitutional Assembly and will report on that at the next sitting.

7. EVALUATION/ASSESSMENT

It is recommended that the constitution-making process be continuously evaluated. This evaluation system will ensure that the process is effective and will allow for appropriate adjustments.

**MINUTES OF THIRD MEETING OF CONSTITUTIONAL COMMITTEE
CONSTITUTIONAL ASSEMBLY
MONDAY 29 AUGUST 1994**

PRESENT

The Chairperson (Mr M C Ramaphosa)

Ackerman C
Asmal AK
Bhabha M
Chabane OC
De Lange JH
De Lille P (alternate)
Du Toit DC
Eglin CW
Fraser-Moleketi GJ
Ginwala FN
Holomisa SP
Kgoali JLB
Kgositsile B
King TJ
Kota ZA
Lekgoro MK
Ligege MG
Lockey D
Mabandla BS
Mahlangu NJ
Mchunu ES
Meshoe KR
Meyer RP
Moosa MV
Mtshali HM
Mulder CP
Myakayaka-Manzini YL
Ngucka BT
Ngwane LB
Pahad EG
Ripinga SS
Schutte DPA
Selfe J (alternate)
Sizani RK
Smith PF
Van Breda A
Van Deventer FJ
Viljoen CL

Wessels L (Deputy Chairperson)
Gogotya JN (alternate)

APOLOGIES :

Felgate WS
Gordhan PJ

P Lilienfeld, H Ebrahim, A Meyer, L Zondo, L Matyolo and M Sparg were in attendance.

The agenda was adopted.

1. MINUTES

The minutes of the previous meeting were adopted with one amendment as proposed by Mr Asmal to the effect that the words "..... asked as to the" were replaced by " ... queried ..." in the first line of the second paragraph of 2 (a).

There were no matters arising from the minutes of the meeting of 25 August 1994.

2. REPORT OF SUB-COMMITTEE ON THE ESTABLISHMENT OF THEME COMMITTEES

A document entitled "Draft Proposal of the Sub-Committee of the Constitutional Committee on the Establishment of Theme Committees" was circulated with the documentation for the meeting.

Mr Moosa spoke briefly to the proposal on behalf of the sub-committee constituted on 25 August 1994.

Mr Viljoen stated that it would be incorrect to regard the sub-themes of the theme committees as contained in the proposal as being " cast in stone " and said the committee should agree in principle that these be changed as and when required.

He stated that members of the Volkstaat Council would be present in the gallery during meetings of the constitutional committee.

He proposed that Article XXXIV of Constitutional Principles dealing with community self-determination be added to theme committees one, two, three and six. He further proposed that the words "... and the executive ..." be added to point 2.3 after the words " ... in legislative process ..." so that point 2.3 would read as follows "Article XIV of Constitutional Principles (participation of minority political parties in legislative process and the executive in manner consistent with democracy)

Mr Meyer noted that there may be duplication in some of the sub-themes of theme committees.

Mr Eglin supported the proposal of the sub-committee as circulated and gave notice that in addition to constitutional principles it may be necessary to itemise in the new constitution a few generic principles which applied throughout the new constitution or related to sub-structures of government.

The Chairperson stated that the committee should apply its mind to this matter and give attention to it later in the meeting.

Mr Smith expressed concern that the committee may be pre-empting the work of the constitutional assembly by attempting to define the sub-themes or terms of reference of each of the theme committees.

The Chairperson stated that there was a need to be flexible in its approach to the work of the theme committees. The meeting agreed. The meeting noted the attendance of members of the Volkstaat Council in the gallery during meetings of the committee.

The meeting proceeded to discuss Mr Viljoen's proposal that Article XXXIV of Constitutional Principles be added to terms of reference of theme committees one, two, three and six.

Mr Moosa stated that he would be concerned if five theme committees were to proceed to discuss the application of Article XXXIV simultaneously and concurrently. He said nothing prevented a theme committee from discussing the sub-themes of another theme committee. However he said a more organised approach would be to await the report and proposals of the Volkstaat Council in this regard which would be fed into to the process and referred to the relevant theme committees.

He also pointed out that the words in brackets in point 2.3 referred to the constitutional principle as contained in the Interim Constitution.

Mr Ripinga supported Mr Moosa.

Mr Asmal also supported Mr Moosa and said that one could neither add nor subtract from constitutional principles. However he stated that he believed this was a matter of misunderstanding between the drafters of the proposal and Mr Viljoen.

Mr Viljoen agreed to the formulation of 2.3 as contained in the proposal. However he stated that he wished to guard against the constitutional committee proceeding and ignoring the effect of Article XXXIV on the work of all the theme committees.

The Chairperson reminded the meeting of the agreement on a flexible approach and said it would be tautologous to repeat the principle throughout the theme committees.

Ms Ginwala stated that the approach of the committee did not amount to excluding discussion of any constitutional principle by any of the theme committees.

Mr Eglin proposed that Article XXXIV of Constitutional Principles be included in the terms of reference of theme committee 2 under structures of government.

Ms Mabandla opposed and said that the concept of self-determination was much wider and should be left as part of the terms of reference of theme committee four on fundamental rights.

Mr Asmal supported Ms Mabandla and stated that historically the concept of community self-determination belonged within the category of collective rights. He said it would minimise discussion on the concept if it were placed in theme committee two on structures of government as this would assign a purely territorial or spatial character to the concept. Ms Kgositsile supported Mr Asmal.

Mr Sizani stated that whilst he supported the view that the concept of self-determination was a broad one, because of its special character in the South African situation, he said it could be included as part of the terms of reference of theme committee one on character of the state.

Mr Smith stated that he supported the proposal from the Freedom Front that Article XXXIV be included as part of the terms of reference of theme committee two on structures of government.

Ms Mabandla said that the committee had already accepted working guidelines of flexibility which would allow the Freedom Front to raise Article XXXIV in any of the theme committees.

Mr De Lange stated that the Interim Constitution was clear that this principle applied at all levels and should run throughout the constitution. He proposed the meeting should move to the next item on the agenda.

The Chairperson suggested that a note be contained at the end of the document on the establishment of theme committees stating that a flexible approach be adopted to the work of these committees. The meeting agreed to the wording of this note as proposed by Mr Asmal stating that certain principles and topic, for example self-determination, may be discussed in more than one theme committee.

Mr Viljoen agreed that Article XXXIV remain as part of the terms of reference of theme committee four on fundamental rights on the understanding that fundamental rights affected the work of all theme committees.

Mr Meyer inquired with regard to theme committee two on structures of government whether the executive would form part of the terms of reference of this committee.

Mr De Lange proposed that an additional point 2.11 be added as follows : 2.11 The Executive.

The meeting agreed.

Mr Sizani proposed that Article VI should be included as part of the terms of reference of theme committee one on the character of the state. The meeting agreed.

Mr Asmal proposed that the heading of theme committee one be amended to read " CHARACTER OF THE DEMOCRATIC STATE ". The meeting agreed.

Ms Mabandla stated that points 5.2 and 5.4 on traditional authorities needed to be reconciled.

Ms Kgositsile stated that Chapter 11 of the Interim Constitution appeared in the terms of reference of three theme committees and could therefore be removed from the terms of reference of the fifth theme committee,

Mr Smith asked why the terms of reference of theme committees as contained in the sub-committee proposal included sections of the Interim Constitution when the constitutional committee had agreed in its previous meetings that the identification of theme committees would be based on constitutional principles.

Mr Du Toit stated that traditional authorities had three aspects, namely, indigenous law, local government and state structures and this is why it appeared as part of the terms of reference of three theme committees.

Ms Ginwala stated that some issues were not covered in the constitutional principles.

The Chairperson re-iterated the earlier decision of the meeting that the sub-themes of theme committees served merely as a guide and that if the committee adopted a mechanical approach and referred only to constitutional principles, certain issues not covered in these principles would be omitted from the terms of reference of the theme committees. The meeting agreed.

The meeting further agreed to the reformulation of these issues in the terms of reference of theme committee and to the deletion of any reference to sections of the Interim Constitution.

Ms Mabandla proposed the deletion of 5.4 and stated that this could be discussed in theme committee two in 2.10

Mr Asmal opposed this view and stated that 5.4 referred to the judicial function of traditional authorities and was correct as it appeared in the proposal. Ms Mabandla agreed.

3. AGENDA AND PROGRAMME OF THE CONSTITUTIONAL ASSEMBLY OF 5 SEPTEMBER 1994

The Chairperson stated that the constitutional committee would need to table a report on its work to date to the Constitutional Assembly. This report would necessarily cover both the work done on the identification of theme committees and the framework for the process of drafting the new constitution. He noted that a document had been circulated at the last meeting as a proposal from staff and had been accepted, with some reformulation, that this constituted a good basis for discussion. The document was still being redrafted.

The meeting proceeded to discuss the point raised by Mr Smith that the committee had pre-empted the work of the Constitutional Assembly by identifying sub-themes of the theme committees.

Ms Ginwala stated that the committee would not be presenting a finalised document to the Constitutional Assembly. All reports from the committee to the Assembly constituted recommendations to facilitate, not pre-empt, discussion in that body.

Mr Smith stated that it was a matter of style and approach and that the list of theme committees be presented to the Assembly as one report. An addendum containing the suggested sub-themes as an example of the terms of reference of theme committees, should be attached to the main report.

Mr Pahad opposed this viewpoint and stated that the committee had been assigned a task by the Assembly and should proceed with this work in the proper fashion.

Mr De Lange stated that he was unsure why the committee was debating this issue when the resolutions of the Constitutional Assembly had themselves created the constitutional committee and instructed the committee to make recommendations etc to the larger body

The meeting agreed.

The Chairperson noted that this issued could be raised again the Constitutional Assembly and allow for further discussion.

4. ANY OTHER BUSINESS

Mr Ngcuka, supported by Mr Moosa, proposed that the document on the framework for drafting the new constitution be referred to the next meeting of the Management Committee. If consensus was reached the document should be referred immediately to the Constitutional Assembly on Monday 5 September 1994.

The Chairperson informed the meeting of the names of the members of the Management Committee : Chairperson, Deputy Chairperson, MV Moosa, OC Chabane, Bs Mabandla (ANC), R Meyer, A Van Breda (NP), W Felgate (IFP), C Viljoen (FF), CW Eglin (DP), R Sizani (PAC) and K Meshoe (ACDP).

The Chairperson stated that the staff had requested with regard to the size of theme committees that this be restricted to 26 members for each committee because of difficulty in obtaining suitable venues.

Mr Moosa opposed this and stated that the size of the theme committees remain at 30 as previously agreed. The meeting agreed.

The meeting rose.

**MINUTES OF FIRST MEETING OF MANAGEMENT COMMITTEE
CONSTITUTIONAL ASSEMBLY**

MONDAY 29 AUGUST 1994 (AT 12H00)

PRESENT

Chairperson (M C Ramaphosa)
Deputy Chairperson (L Wessels)
Chabane OC
Eglin CW
Mabandla BS
Meshoe K
Meyer R
Moosa MV
Sizani R
Van Breda A

P Lillienfeld, H Ebrahim, A Meyer, L Zondo, M Sparg and L Matyolo were in attendance.

The Chairperson stated that no formal agenda had been prepared. This meeting was the convening meeting for the management committee.

In terms of the minutes of the meeting of the Constitutional Committee on 25 August 1994 three matters had been referred to the Management Committee.

These were :

- * Proposals on media strategy and administration;
- * Relationship between the Constitutional Committee and the Constitutional Assembly.

The Chairperson stated that the proposals on media strategy and administration were still being redrafted.

Mr Eglin gave notice that the committee would also need to consider a set of basic principles in addition to the Constitutional Principles which may need to be included in the new constitution.

The Chairperson stated this matter should be reflected upon in the Constitutional Committee when the identification of theme committees was debated. The meeting agreed.

Mr Wessels proposed that the meeting discuss a programme of meetings for the various sub-structures of the Constitutional Assembly.

After some discussion, the meeting agreed to the following sequence of meetings:

- * The Constitutional Assembly and Constitutional Committee would meet on alternate Mondays at 14h15; and
- * The Management Committee would meet on Mondays at 12h00 and on Thursdays at 08h30.

Mr Wessels further proposed that the staff should draft a programme for the work of the Constitutional Assembly.

Some discussion ensued in the meeting on whether the structures of the CA should meet whilst parliament was in recess.

After some discussion, it was agreed that whilst no meetings would take place during the next recess, this would not necessarily apply to other periods of recess.

Mr Sizani noted in passing that the committee may have to consider the amendment of the constitution in due course because of the extreme pressure of time set by the Interim Constitution.

Mr Meyer, supported by Mr Moosa, proposed that this matter should not be pursued immediately and would be revisited only when required. The meeting agreed.

The meeting rose at 12h55.

No 3-1994]

REPUBLIC OF SOUTH AFRICA

CONSTITUTIONAL ASSEMBLY

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**AGENDA OF
PROCEEDINGS**

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MONDAY, 5 SEPTEMBER 1994

Chamber of National Assembly: 14:15

1. **Draft resolution (Chairperson of the Constitutional Assembly):**

That the report of the Constitutional Committee tabled on 2 September 1994, be adopted.

PROPOSAL FOR ENABLING PRIVATE MEMBERS TO RAISE CONCERNS AND QUERIES DURING DEBATE IN CONSTITUTIONAL ASSEMBLY

(The following is based loosely on a suggestion put forward by Minister Moosa in the Steering Committee.)

What follows could be arranged informally, by agreement with the Whips, and need not involve any alterations to the Rules. If it took root and became established, consideration could later be given, if it was found necessary, to make provision for it in the Rules.

1. Towards the end of the ordinary debate in which a speakers' list is used (or at some other stage to be agreed on) the Chairperson announces that the Assembly will now proceed to [name? '*Member's Open Time*'? '*Private members' time*'? I can't think of a good name], lasting 30 minutes. [In the Indian and some other Parliaments a similar procedure is known as '*Zero Hour*'.]
2. The first 20 minutes is divided into 2-minute speaking turns, allocated as follows: ANC 3, NP 2, the rest 1 each, in a sequence agreed on by the parties - something like:

ANC, NP, ACDP, PAC, ANC, DP, FF, IFP, NP, ANC.

The Chairperson merely calls out the party name in the sequence agreed on, and it is for the party to decide which of its members - if any - will use the slot. A member using a slot will come to a floor mike or the podium, identify himself, and speak for up to 2 minutes.

3. Parties should be encouraged to use this mechanism in the spirit that it enables members to raise their particular concerns.
4. A member speaking may either make a statement, raise a complaint, or ask a question.
5. After the 20-minute period is over, the Chairperson may for 10 minutes respond to any questions or points raised, or else call upon another office-bearer or member of a CA committee to respond, if a response is called for.

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