

12 October 1994

NATIONAL PARTY PROPOSALS FOR THE ADOPTION OF A NEW CONSTITUTIONAL TEXT (Main points)

The Constitutional Assembly (CA) decides on the chapter Division for the new Constitutional text.

- * The index of the present Constitution (200 of 1993) could be used as a valuable point of departure to add, delete or join chapters and themes. A comparison with other modern constitutions will also be informative.
- * For these purposes the CA could appoint a special ad hoc advising committee in terms of section 72(1) of the Constitution, or (preferably) the panel that is envisaged in section 72(2) could formulate a proposal in this regard.
- * The formulation of those chapters on which the CA decides, falling under the framework of the respective theme committee is assigned to each theme committee, in order of priority. Target date: 31 October 1994

2. The CA considers proposals, debates and decides on the foundation or vision which must serve as a directive yardstick for the constitution writing process (and the subsequent interpretation of the Constitution).

- The requirements of the present Constitution (especially those prescribed in Annexure 4) need to be thoroughly analysed.
- The foundation of the present Constitution will also be useful, including the preamble and the last (unnumbered) provisions on national unity and reconciliation.
- Inputs on these fundamentals can also be requested from the public; it is after all the intention to give expression to the national will in the Constitution in principle rather than detail

An advisory committee or the panel of experts could also be used for this purpose. Target date: 25 November 1994

3. The theme committees formulate draft chapters.

- The technical committee of a theme committee draws up the specific chapter (for co-ordinating purposes in conjunction with the panel of experts) after an initial debate in the theme committee.

- The technical committee's draft is discussed and after on and possible amendments, this draft (as well as alternative formulations where consensus on this draft could not be reached) is submitted to the Constitutional Committee and published in the Government Gazette and in the general media for wide consideration and comments before a cut-off date.

- After the expiry of the cut-off date, the theme committee again debates the draft chapter as proposed by the technical committee as well as the alternative formulations in conjunction with the comments received after its publication. the theme committee tries to reach consensus on the final formulation of a specific chapter. In the case of consensus the final formulation is submitted to the Constitutional committee. Where consensus could not be reached, alternative formulations are also submitted to the Constitutional Committee.

Target date: Through to 30 June 1995

4. When theme committees submit draft chapters, the Constitutional Committee deals with them, debates them, amends them or refers them back to the theme committee concerned where necessary, or even to another theme committee for comment. Target date: 30 June 95

5. As draft chapters are finalised by the Constitutional Committee, they are submitted to the CA for debate. At this stage consideration can be given to referring a specific chapter (in compliance with clause 71(4) of the Constitution) to the Constitutional Court for an opinion on its compatibility with the Constitutional Principles. Target date: 30 September 1995

6. When all the chapters are provisionally approved by the CA, the Constitutional Committee consolidates and co-ordinates the complete text and fleshes it out with the necessary formal provisions, including transitional provisions, commencement, repeal of acts, short title, etc.
Target date: 30 November 1995

NOTE:

- I. More than 90% of the population of the country is represented in the Constitutional Assembly by elected political parties. Inputs can thus be made in the first instance by the party structures of political parties. This can assist in limiting the public consultation process.
2. National Party supports the idea that civil society in general should be involved in submitting written proposals, elucidated where by oral presentations.
3. The National Party supports a transparent process . All stages of progress should be made public as widely as possible. The population should be informed and have the opportunity to react on proposals.