



NATIONAL ASSEMBLY PROGRAMME COMMITTEE

Chairperson:
Speaker of the National Assembly

Committee Secretary:
A Mbanga x 3218

DRAFT MINUTES OF PROCEEDINGS

Thursday, 5 May 2022 [Virtual]

Present:

N N Mapisa-Nqakula (Speaker)

S L Tsenoli (Deputy Speaker)

Boroto, M G (House Chairperson)	Mulder, C P
Frolick, C T (House Chairperson)	Ntombela, M L D (House Chairperson)
Gwarube, S	Papo, A H M (Parliamentary Counsellor to the Deputy President)
Jafta, S M	Shaik Emam, A M
Koornhof, G W (Parliamentary Counsellor to the President)	Singh, N
Lesoma, R M M (Programming Whip)	Swart, S N
Majodina, P C P (Chief Whip of the Majority Party)	Wessels, W W
Mazzone, N W A (Chief Whip of the Opposition)	

Staff in attendance:

Acting Secretary to Parliament Ms P N Tyawa, Secretary to the National Assembly Mr M Xaso, Dr T Mbatha and Adv C R van der Merwe (Constitutional and Legal Services Office), and Adv M Tau (Committees).

1. Opening

The Speaker opened the meeting at 08:30 and welcomed all present.

2. Apologies

An apology was tendered on behalf of Mr B N Herron.

3. Consideration of draft agenda

The draft agenda was adopted as proposed, with the addition of 'timeline for consideration of Zondo Commission's State Capture Inquiry Report' under the Parliamentary Programme.

4. Consideration of minutes of meeting of 31 March 2022

On the proposal of Mr Singh, seconded by Adv Swart, the minutes of 31 March were adopted.

5. Matters arising

Ad Hoc Joint Committee on Flood Disaster Relief and Recovery

The Speaker informed the meeting that the Committee had since been established by the two Houses and the ANC, DA, EFF had submitted names for membership. House Chairperson Mr Frolick indicated that he was expecting the ad hoc committee to hold its first meeting in the following week in order to be formally constituted and start its work. In that meeting, a report from the Research Unit on the commitments made by the government was expected to be presented as well as a draft programme. Furthermore, proposals on visits by the committee to KwaZulu-Natal (KZN) that should take place in 7-10 days after the first meeting would be considered. House Chairperson Mr Frolick also indicated that he was also in agreement with his counterpart in the National Council of Provinces (NCOP) in that the preliminary work would be conducted by the ad hoc joint committee but there was understanding that other line function committees would also play a role in the matter. However, other committees would not be allowed to exercise oversight in KZN as that could create confusion and difficulties about providing interim reports.

Mr Singh indicated that he would consult with the other parties in order to finalise the submission of the two names of members who would be serving in the committee. He also indicated that he was pre-empting that there could be some members from the smaller parties who do not have voting rights but might want to participate in the proceedings as the matter could be affecting certain parts of their constituencies. The Chief Whip of the Majority Party clarified that the issue of composition of the ad hoc committee was also discussed in the meeting of the Chief Whips' Forum (CWF) the previous day when a request was made for inclusion of certain parties but it was explained that the representation of smaller parties would be coordinated by the Inkatha Freedom Party.

Processing of the Report on the Request by the Minister of Trade, Industry and Competition to make recommendations on the suitability of candidates for the position of Chairperson of the Board of National Lotteries Commission

Adv Tau reported that he had been informed by the Chairperson of the Portfolio Committee on Trade and Industry that the matter would be considered in the following week.

Protection of State Information Bill

Mr Xaso advised that the Bill had been returned by the President for Parliament to consider his reservations. At the time, the Bill had been referred to the Portfolio Committee on Justice and Correctional Services but that there was an indication that an appropriate committee should be identified to consider it. The Legal Services office was preparing advice on the constitutional aspects of the Bill in order to provide a way forward. An outcome of that process would be communicated.

6. Report from Committee Section

Adv Tau presented an update on matters before committees and indicated that the following Bills could be finalised as follows:

- Agricultural Produce Agent Amendment Bill on 7 June
- Criminal Law (Forensic Procedure) Amendment Bill on 6 May
- Financial Sector and Deposit Insurance Levies Bill and Financial Sector & Deposit Insurance Levies (Administration) Bill on 18 May

Adv Tau also indicated that the Committee on Inquiry into Violence and Looting in Gauteng and KZN Provinces resolved to await the outcomes and release of reports of

the Presidential Panel of inquiry as well as that of the South African Human Rights Commission, which would be referred to it.

7. Report by Bills Office

Dr Mbatha presented legislation before committees and indicated that the Older Persons Amendment Bill had recently been introduced. The Local Government: Municipal Systems Amendment Bill would be sent to the President for assent, bringing the total number of acts with the President to four.

Report on Constitutional Court judgments

Adv Van der Merwe presented a report on Constitutional Court deadlines as follows:

Electoral Act, 1998 (Act No. 73 of 1998)

The Portfolio Committee on Home Affairs had concluded its public hearings as well as provincial consultations. An application for an extension of the suspensive order had been filed in the previous week at the Constitutional Court. Parliament was awaiting further directions from the court on the further processing of the matter.

In response to Ms Gwarube, Adv Van der Merwe clarified that when an application is filed, the litigants then awaited guidance from the Constitutional court in respect of either a date on which parties would be invited to present arguments for consideration by the judges, or if they would only be required to submit papers to the Constitutional Court. Mr Swart asked what would be the implications if the Constitutional Court did not grant extension as requested by Parliament as there was a possibility that it could be opposed. Adv Van der Merwe explained that, by the time the next elections are held there should be provision for independent candidates. In case that the extension would not be granted, there would not be any immediate invalidity that affects the working of laws, however Parliament would be obliged to finalise the Electoral Laws Amendment Bill as soon as possible. Failure to do so, could mean that the elections would not be constitutional.

With regard to the Maintenance of Surviving Spouses Act, 1990 (Act No. 27 of 1990) and Intestate Succession Act, 1987 (Act No. 81 of 1987), Mr Singh reiterated that these matters needed to be followed up as there was no response from the Department of Justice and Correctional Services in the last three months, even though deadlines were set for 29 June 2023 for introduction of a Bill. Adv Van der Merwe replied that the Legal Services unit was following up on these matters with the Office of Leader of Government Business on a regular basis, as well as with the relevant departments and Committees Section, in order to ensure that Parliament met the deadlines.

8. Consideration of draft Parliamentary programme

The Programming Whip presented the Parliamentary Programme for the Second Term and highlighted the following:

Debates on Budget Votes were scheduled for Tuesday, Thursday and Friday, the following week. Committees were scheduled on Wednesday, 11 May.

The Chief Whip of the Majority Party requested that, in an event that the normal time allocated for questions had expired while a question was still being dealt with, members should be allowed to pose all the remaining supplementary questions even if it meant going beyond the

set time. Furthermore, presiding officers should be consistent in adhering to that practice and NA Table staff should assist accordingly. Mr Papo said that he agreed with the Chief Whip of the Majority Party as that would not be a violation of the rules. House Chairperson Mr Ntombela also said that he was grateful that this matter was raised and clarified as it was problematic sometimes and said he hoped that it would be addressed with the Table staff in order to avoid any confusion.

Mr Singh requested that consideration be given to a guideline that would make it possible for smaller parties to transfer one minute of their time between themselves when one party was not available to participate in a particular budget vote during mini-plenaries, as was the case in the past. He said that it was possible for a particular party to have more interest in a particular vote and therefore require an additional minute.

Timeline for consideration of Zondo Commission's State Capture Inquiry Report

Ms Gwarube requested that there should be a reconsideration of the timelines for processing of the report of the commission by Parliament, notwithstanding a previous advisory by the Speaker that the final report of the Commission could be tabled by the President around October 2022. She argued that there were specific sections of Part Four of the report, which were dealing with the functions of Parliament, which would not be contained in the report that the President would table later. In one paragraph of the report, Ms Gwarube stated that it is recorded that *"Before I conclude I need to ask this question: Where was Parliament as all these things were happening at Eskom..."* She said that even though the President would table a report with implementation plans as it pertained to the functions of the Executive, there were sections of the report that were specific to Parliament. As a result, she requested that the timelines as initially advised by the Speaker should be amended because, once the final report was out, there was absolutely no reason for Parliament not to start its own processes to consider specifically the role of the institution as it pertained to state capture. The President would not proclaim on the role of the institution and therefore the Programme Committee should start mapping out processes that would spell out Parliament's oversight role in the matter.

Mr Xaso explained that Part Three of the report had been tabled by the President in Parliament and Legal Services and the NA Table were in a process of advising the Speaker on how the matter should be taken forward. That part of the Report was dealing with certain Members of Parliament and former members. Further advice to the Speaker on the complete report of the Commission, in view of sentiments from Ms Gwarube, may have to be provided on how to process the matters that had been raised. Mr Xaso added that the understanding had been that Parliament would await the final report and refer it to the Rules Committee for guidance.

The Chief Whip of the Majority Party stated that Parliament did not institute a commission on state capture but that was done by the President and Cabinet. Consequently, the President was supposed to table the report for consideration in Parliament and therefore the institution should await due processes. She added that the report would not disappear and should not be considered in a piece-meal manner, thus avoiding a wrong precedent. Mr Papo, on the other hand, stated that Ms Gwarube was providing the quote in an 'out of context' fashion to convince the meeting to run ahead. He added the Committee meeting had previously resolved on an approach to the report. Mr Singh indicated that he was in agreement that the committee should await the legal opinion referred to earlier by Mr Xaso but also agreed with Ms Gwarube that Parliament should be alive to the dynamics of the situation in order for the institution not to find itself having done nothing.

The Chief Whip of the Opposition, however, intimated that what struck a real chord with her was the remarks by the President, during his address on the national state of disaster and its implementation, when he vowed that there would never be looting again as it happened with the Covid-19 as well as state capture. She said that she was wondering, with a glimmer of hope in her heart, that Parliament had to consider all these important matters and that she had

a great deal of trust in the Speaker as well as the previous Speaker, on how they refused to be side-tracked from a mission that they knew was completely important for our democracy and Parliament. At that point the Speaker called upon the Chief Whip of the Opposition to focus on the matter at hand and not to make political statements. The Speaker said that she took serious exception when she was inferring that Parliament had not committed itself to act once the final report had been tabled by the President. As indicated, the report would also outline a plan of action on how to deal with the recommendations. Furthermore, the Speaker stated that Parliament would deal with, among others, areas that directly affected its scope of oversight through relevant committees. The delay in the tabling of the report was not taking away the responsibility of dealing with the report. She suggested that, if parties wished to engage further on the matter, they could do so at the level of the CWF and provide proposals to the meeting, if any, on what should be done. Dr Koornhof added that the Speaker had already provided a way forward on the matter as dates for submission of the reports as well as tabling by the President in Parliament were in the public domain. The reports were all available on the website of the presidency.

9. Announcements

Mr Xaso reminded the meeting that mini-plenaries on the Budget Votes were scheduled to start in the following week and would be conducted virtually. A note on practical issues around the proceedings would be forwarded to the whips in due course.

10. Closure

The meeting adjourned at 09:20.