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Reason for corrections ✓

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Core Group

not

co-group.

THEME COMMITTEE 2

MEETING 25 JANUARY 1995

TAPES 1 TO 3

Theme Committee 2
25 January 1995

(Tape 1)

Chairperson: I hope we should start our meeting now Sorry my brother, can you switch that off .. That's my brothers. Good morning, Ladies and Gentlemen. Welcome to Theme Committee 2 meeting. I want to first of all, introduce the new secretariat. As you all know, that they have been replaced. You remember that we had Nonkosi Cetywayo and Pat. Today we have Mr James Nene next to me he is our new manager, and next to him that side on his right is Mr Thomas Smit who is our new secretary. And we welcome again Miss Meyer who is sitting next to the door there and the Executive Director, Mr Ebrahim.

Introduction .. That is Mr James Nene, that is Thomas Smit, that is Executive Director and that is Ms Meyer. Thank you very much.

We are at item no 2. Theme Committee minutes. May we have the confirmation of the minutes?

Speaker: There is just one correction. Under absenteeism there .. Phakathi NE was present, if that just can be corrected and the spelling is 'thi'.

Chairperson: Is there any other corrections? May I have confirmation of the minutes? General ... Thank you very much.

We come to item number 3. You will recall that there was an invitation from the Commission for Provincial Government; a seminar that took place in Pretoria and members as they were listed there Prof DC du Toit, Senator Groenewald, Mr Mahlangu, Mr Rabie and myself attended that workshop. I want again to thank the members especially the Co-chairman of this Theme Committee, because all of them attended that workshop, including Senator Groenewald. It says there in the minutes that generally the workshop was not properly attended but we as Theme Committee attended fully. I think that statement applies to other Theme Committees who were not present in that workshop. May I take it that we approve the minutes of that workshop, unless there is any queries from those members who were present in that workshop? Thank you very much.

We come now to item number 4 - the Core Group report. You recall that yesterday, we had a Core Group meeting which was addressed by the Executive Director and our request is now to the Executive Director to briefly give us the briefing document and then thereafter I will report about the Core Group afterwards. I have requested him to come here so that all members have the benefit of after the briefing from the Executive Director, have some few questions if they want to pose to the Executive Director, so that we know our way forward as from now on, because we won't have him every now and then when we are having our Theme Committee. Up to you sir

Ebrahim:

Thank you very much, Chairperson. May I say that the briefing that was provided to Chairpersons, the forum itself was a very useful forum. In the past we've found that there's been some concern amongst members of Theme Committees that they felt a little cut off from the Management of the process. Especially members of Theme Committees who are not members of the Constitutional Committee or Management Committee felt a little cut off and that is the sense that we got. And, there was a strong feeling which I hope will be carried forward and put into practice by the various Chairpersons of the Theme Committees at that meeting where they will be briefed by the Chairperson and Deputy Chairperson of the Constitutional Assembly that that forum should be an ongoing process so that we can find a continuing relationship between the Theme Committees and the Management Committee in a much more stronger way. And, hopefully that process will continue.

Chairperson, the briefing document essentially deals with the following: The first is the work programme, the work programme is the issue are at follows - on pages 14 and 15 of the documentation, members will find a table containing the recommended work programme. This work programme was placed before the Constitutional Committee on the 2nd December and was presented to them. The Constitutional Committee accepted the work programme as a broad framework but agreed that we should be flexible in terms of how we approach the entire work programme. The only agreement reached at the Constitutional Committee pertained to block one, so horizontally along block one effecting each of the Theme Committees, those were items that were agreed to by the Constitutional Committee as matters to be attended to by Theme Committees. With regard to the rest of the blocks, the agreement was that we

should leave this as flexible as possible so as to allow for maximum input also from the Theme Committees. Members will remember from our various Constitutional Assembly resolutions that the responsibility of the Management Committees to co-ordinate the entire process, issues such as overlaps, matters of common interest, should be attended to and co-ordinated by the Management Committee. Now, the administration in response to the decisions taken on the 2nd of December, the administration has processed a much more detailed work programme. I must state that one of the proper criticisms against this table is that it is a shorthand which denies people an opportunity of fully understanding the nature of the agenda items for each of the Theme Committees. We have taken that on board and we are providing a revised work programme which will be tabled with the Management Committee on Friday and hopefully will be made available to all Theme Committee members. The important point about the Theme Committee, the work programme generally, is that we would appreciate it if there is maximum input from Theme Committees as to the agenda items that they had to attend to and the work programme in its totality. We agreed that finality cannot be obtained now, because you'll find new matters arising in the course of discussion and some matters possibly falling off. So, the programme may change as time goes by but we are urging all Theme Committees to attempt to reach finality on the work programme as best as possible and as early as possible. The primary reason for this is that we would like to ensure that with regard to the Public Participation programme, there is some level of certainty with regard to the organisation, preparation, invitation of the various role players, and to make sure that your Public Participation programmes are a meaningful success. To do this, we need to have some certainty in terms of when matters are coming up and going to be discussed so that we can organise appropriate public hearings, conferences, workshops, seminars and so on.

Chairperson, I leave the work programme at that point and proceed to deal with the issue relating to management. The Management Committee is regarded as the overall body responsible for the management of the process itself and its responsibilities as I said amongst others, is to ensure that the entire work programme is co-ordinated, organised in a way that is efficient for the entire process. Particularly, with regard to the number of overlaps that inevitably and invariably will arise as between Theme Committees, to

make sure that that is properly attended to, to ensure that matters common to different Theme Committees are dealt with in the proper order and the common example that has been given is the issue relating to whether it be traditional authorities, elections, local government, other matters which are common to various Theme Committees. We cannot afford to have those common matters being discussed at different levels, particularly when it comes to the question of public hearings, you cannot invite role players a number of times sequentially to deal with different matters for different Theme Committees, it doesn't make for efficient organisation and so on. So, to obtain some level of coherence, the Management Committee will see to organise and co-ordinate the work programme as best as is possible.

Chairperson, I want to deal with the question of the role of the Core Groups and the Chairpersons of the Theme Committees. The view is that the Core Group performs an increasingly important role during the course of this session, particularly because of its management responsibilities with regard to the Theme Committees activities. The leadership of the Core Group and in particular the Chairpersons are of extreme importance, because if at all, we have to maintain and adhere to the time frames that we have set out for ourselves, we need to ensure that our Theme Committees are managed and organised in as an efficient manner as is possible. So, the general progress of our Theme Committees will in a large measure depend on the leadership of the Core Groups and the Chairpersons. In particular, Chairperson, what will become increasingly important over the next few weeks, is ensuring that not only our agendas are probably organised, drawn up and so on, but in particular, that our reports are submitted and submitted timeously. To do this, the Core Group would have to ensure that the reports of the Theme Committee are compiled at the earliest possible opportunity and forwarded.

Chairperson, I want to pause a moment with regard to the question of reports and emphasise its importance to the entire process. In the Constitutional Assembly, all parties were unanimous on one particular point, that the Constitutional Assembly being the highest authority has to sit as regularly as possible so as to attend to all matters. Our Theme Committees accommodate no more than 180 members of the Constitutional Assembly. The Constitutional Assembly has 490 members, therefore there is some

importance and merit in ensuring that this Constitutional Assembly sits as regularly as is possible. For the Constitutional Assembly to sit as regularly as possible, we have to ensure that the Constitutional Assembly have sufficient substantial matters to discuss. Otherwise, it would be a meaningless exercise to hold a session of the Constitutional Assembly with nothing meaningful to discuss. And for the future, the discussions of the Constitutional Assembly will depend almost entirely on the reports that are generated from the various Theme Committees. Now, we all know that we cannot bring to finality in a course of a few weeks, any particular agenda item for discussion and that a lot of the items will be continuing discussion. However, even if it requires an interim report, it will be important for those interim reports, and draft reports, to be submitted to the Constitutional Committees so that the necessary items could be tabled for a Constitutional Assembly timeously. So the timeous submission of reports is an essential element for the success and efficiency of our process.

Then, coming to the question of the various activities of the Theme Committees, and attendance of various other meetings... As we have seen in the case of the workshop on Commission on Provincial Government, you will notice also from the work programme, that we have slotted almost every weekend as a Public Participation activity. Now, we all know that not all members could be available for every weekend for every activity, and invariably we are going to have to take into account the fact that various members have constituency responsibilities, they have other committee responsibilities, parliamentary responsibilities and even their personal family responsibilities, so we cannot afford to engage every member every weekend. The result is that with a number of Public Participation events that we are organising invariably what you will find, is that the delegation will be sent from a Theme Committee representing a Theme Committee in any one Public Participation programme. Now, it is going to be the responsibility of the Core Group to ensure that these delegations are properly organised and co-ordinated. Invariably, what you will also find is that there will be more than one Public Participation activity or other activity that will take place possibly even simultaneously. Or, there may be even need for the Theme Committee to decide on a sub-committee to decide on a particular issue whatever the case may be. We have had that instance in Theme Committee 6 where for experience purposes it was found necessary to

divide it into four sub-committees. Should that be the case with your Theme Committee again the need for the Core Group to ensure proper co-ordination and management of the activities.

Then generally, the Core Group and the role of the Chairpersons is necessary to ensure that Theme Committee tasks and decisions are dealt with accordingly, the normal Steering Committee of guiding working committee responsibilities to that. Chairperson, related to the responsibility of the Core Groups and the Chairpersons, is the role of the Secretariat. I want to make apology for the changes that we have effected to the Secretarial Staff, we did promise Theme Committees that we would not change that staff so as to ensure some level of consistency and continuity. Various reasons beyond our control, made it necessary that we had to change the Secretarial Staff. We assure that hopefully there would be no reason to change the staff in the future and that they will remain with you. Also, to give you the assurance that from the Secretariat and the administration generally, we have made all the necessary attempts to ensure we have the necessary staff on board to facilitate all the processes and activities which your Theme Committee would wish to undertake and carry out. But there is a more important aspect regarding the Secretariat and the role of the Chairpersons and the Core Groups. We are conscious of the possibility that considering the little time allocated to members to deal with activities relating to the Constitutional Assembly, that people have very little time and that often enough reports tend to become a difficult matter and that in the past, our secretarial staff have been required to draft reports which have become a controversial matter. We would like to ensure that those matters are dealt with appropriately and that the secretarial staff will have no more than its administrative and secretarial functions and there should be no difficulties or contention for the future. But from a secretarial point of view, we have taken all the necessary steps to make sure that your activities are carried out in the best possible way.

Chairperson, I've dealt with number seven, the Theme Committee reports and I would want to immediately proceed with regard to the question of submissions. Chairperson, when you chaired the meeting of the Core Group, you were fairly strong on the question of political parties tabling their submissions timeously. This is the key aspect which is very, very important. And again, the role of

the Chairpersons, the leadership of the Chairpersons and the Core Group is fundamental in ensuring that political parties necessarily make the submissions timeously so as to facilitate the work. Submissions is probably an important point and a few words need to be said in that regard. Chairperson, I must take that, as was reported in the Constitutional Assembly, we have had an overwhelming response to our invitations for submissions. Very exciting is the fact that the large majority of people who have responded are ordinary citizens. Ordinary citizens with fairly concrete and fairly decent ideas as to what they would like our country and our Constitution to look like. To facilitate matters, we are producing a document as you would have occasion to have a copy, the submissions document. Now, a problem that arises is that with the volume of submissions that is being made, we recognise that unless we provide members with a tool or a guide, it is literally impossible for every member to read every submission completely. To assist members, what we have attempted to provide is this document, referred to as a synopsis of submissions. Chairperson, this synopsis is divided in two parts, the first part of it is no more than an overview which on page three will tell you how many submissions were made, and by whom they were made. The following pages will tell you as best as is possible what those submissions contained and what categories those submissions were identified and allocated to. Chairperson, there is a very important point that we need to make here and that is that the administration is reviewing the entire process with regard to submissions in the light of the volume of submissions that are being made and received by the public. We are attempting, as was reported in the Constitutional Assembly, we are attempting to computerise the entire process so as to make sure that access and retrieval of submissions in an organised and co-ordinated fashion, based on the needs of members and Theme Committees would be able to be provided for. We hope that that exercise will come to bear and come into practice shortly and we will report to members on this process. But in the meantime, we have drafted this document as a tool and as a guide. Chairperson, I want to be categorical that we do not intend to allow this to be a political tool, it is not an attempt to steer people to any particular submission or any particular aspect of a submission. But, it is no more than a tool or a guide to help members in identifying the relevant submissions and the relevant aspects of the submissions. It is in no way intended to replace the actual submission in itself and it is not intended as a political guide or a political tool. We hope

we would be able to reach an agreement and we are in discussions with various universities to ensure that senior Law students and members of Law faculties would assist us in the process of providing proper executive summaries. We are conscious, however, that these executive summaries may however be defined as having some political prejudice so we are somewhat wary of that. Now, the point about this exercise is that we present it to you as a tool and as a guide and hope that we will receive your responses and input and advise us as to how to enrich this process so as to make life and work easier for you. So, your responses and advice on this matter would be very, very welcome. We hope that what we have provided, gives you the best possible assistance. Your submissions will be tabled with your Theme Committee on a regular basis. Now, for those members who fear that we will only allocate particular submissions to a particular Theme Committee and a Theme Committee will be denied the possibility of having other submissions, we are producing, as per the decision of the Constitutional Committee, a tablings document which will contain a list of all submissions made by the public. So any member will have, not only members of the Constitutional Assembly but members of the public, would be able to scan from this tablings document an acknowledgement of receipt of their submissions and will know what is happening to that submission. So, any member who recognises a submission that they may wish to have a look at and which may not be contained in that documentation pack, would be free to approach the administration for copies of those submissions. I am sure members will appreciate that at this point in time it would be a phenomenally expensive exercise to replicate the library of documents that we are having on submissions for each and every member. It would be literally exorbitant and incomprehensible, so we hope that that would be a facility that would assist members and again it is a matter in which we await the advice of the members in advising us how to deal with this matter so as to facilitate your work.

Chairperson, the last point that I need to make is with regard to technical committees and the community liaison programme. The community liaison programme is being finalised, will be tabled with the Management Committee, whose responsibility it would be to oversee this process, and will be forwarded to each of the Theme Committees. I want to make apology for the slight delay in submission of that report and that proposal but time has just made it literally impossible to deal with it any earlier.

We hope that this programmeme, the community liaison programmeme, that we have to present to you, will be considered at the earliest possible opportunity. It is merely a guide and an aid for Theme Committee members. It is something that is not specifically fashioned for a particular Theme Committee as rather than being for the benefit of the entire Constitutional Assembly and all the Theme Committees. We have attempted to consider your particular requirements as best as possible but here again we do not intend to determine for you what Public Participation programmeme you should have and who the role players should be and when they should be and where they should be. We provide this as a guide and hopefully as early as is possible, if there are responses to this, then the administration will be sensitive to it so that we could facilitate the appropriate programmemes. If at all, we have excluded from that work programmeme, aspects which you may regard as important, various workshops and so on, then we would certainly provide for that. We are quite satisfied with the other Theme Committees, in fact as we sit and talk now, we have an International Conference for purposes of Theme Committee 6 which is due to start in a few minutes. It is quite an exciting project and conference and again, this facility is open to even your Theme Committee should there be a matter, a programme, a workshop, a seminar that may fall outside of what we are proposing. Certainly by all means provide that information to us as early as is possible and we will attempt to facilitate that process.

Chairperson, a final point on the question of technical committees. The report that I wish to make on this, is that on the 2nd of December the Constitutional Committee had occasion to decide on the question of technical committees and the thorny question of how they are to be appointed and allocated. The decision of the Constitutional Committee was that the sub-committee which decided on the panel of experts, will be the same sub-committee that will be convened for purposes of considering the matter relating to technical experts. That sub-committee since 2nd December, found it difficult to meet for various reasons and the first opportunity for their meeting took place on Monday. I am advised that at 07h30 this morning, they met again. I am not aware of the decisions of that sub-committee but hopefully they will resolve the matter as best as is possible. And I understand that various political parties have now finalised their list of nominees for the technical committees and hopefully that will be brought to finality as soon as is

possible. So I make apology for the fact that as of now you have no access to technical experts, but hopefully that matter will be resolved in the very, very near future and in the coming few sessions, you would have access to the technical experts that you wish. Chairperson, I leave my report at that then. I would take any questions if they are necessary. Thanks.

Chairperson: Thank you very much, Mr Ebrahim. Thank you very much for your input and briefing. May I request then the members if there are questions or clarity that they need to have, with the Executive Director while he is still here. May we ask that question before I come back with the report of the Core Group, because he has to ride somewhere else that is why I asked him to put his briefing first. Are there any questions?

Speaker: The question of consulting the various communities country wide and the fact that only some members of a committee would be expected to attend any particular weekend. Would those arrangements, and everything associatory be made by the Secretariat or must every individual member make his own arrangement in terms of transport, accommodation and whatever?

Chairperson: Thank you very much.

Ebrahim: Chairperson, an important point. We have administrative facilities, we have a community liaison team that will attend to the logistics of the entire occasion, that will arrange for the venues, the sound system, to the speaking, to the entire programme itself. The Secretariat and the administration generally will take the responsibility of making the necessary arrangements for the transport of members and whatever facilities are required we will make that available as well as the secretarial facilities at those Theme Committees will be made available. We have been afforded an opportunity of allocating an item in our budget facilitating for this purpose as well and there is a significant portion of our budget in fact which is allocated for this purpose. So those matters will be attended to financially and administratively. There is a point, that needs to be made with regard to the Secretariat and the travel arrangements. From the few meetings that we have organised, we have found that members often enough seem to change their minds several times as to when they want to travel, where they want to travel and how they want to travel. All I can do is to make an appeal to members to bear

in mind that when we travel beyond Cape Town, we do not carry such a large contingent of administrative staff to actually attend to all these various total changes on a continuous basis, but we would provide those secretarial facilities and administrative facilities to the best of our ability. Thank you, Chairman.

Chairperson: To add on to that. When I talk about Public Participation, the Core Group have talked about it yesterday and we think that when we are embarking on that programme, we should bear in mind that we should co-ordinate with other Theme Committees, because if we are going to the Public, the Public won't just deal with the separation of power only, they will deal with the whole thought of things that come into their minds. Therefore the whole groups, Theme Committees, have to be represented in that Public Participation. Then we are talking about nine people who will be in the trip, plus the Secretariat. We must bear in mind that when a member has already agreed that he will participate, he has to participate, whether he likes it or not. Msomi ...

Msomi: Mr Chairperson, thank you. Forgive me if I am taking you slightly backwards, but trying to find a link between the recommendation that the Commission of Provincial Government should decide which powers are exclusive and/or concurrent and that that should not be influenced by particular interests. If that recommendation was accepted, how does that reconcile with the fact that the submissions by political parties will inevitably differ and therefore recommendations could not possibly be seen to be applicable?

Chairperson: May I beg for indulgence, Mr Msomi, what are you really talking about? Oh, the workshop report. Well, the workshop report, again I want to explain that the workshop report was done to facilitate the theme group knowing what these three Chairmen plus Senator Groenewald, have embarked upon, because they were requested by the Theme Committee to represent them at that workshop. That workshop has to come out with some other recommendations which does not bind all political parties including this Theme Committee but they were embarking on how they were going to proceed doing their own job as the Commission for Provincial Government. Therefore, the inputs that we have done there, some of them, not all, will facilitate the working of the Commission, plus us, plus the provinces in doing whatever they are doing. In other words,

here we are saying that they have to have an idea how to proceed to acquire the knowledge of the provinces. In the meantime, colleague, work with us on the national basis to produce the constitution which will be acceptable to all the provinces and us here on the national basis. Specifically us, who are ??? the nitty gritty of the constitution. Therefore, I would respond by saying that I think that question of yours is a varied question, I would request that the member poses that question to the Commission for administration which may be respond properly than us here in this Theme Committee because most of us were not there. Few of the members were there and we were representing the Theme Committee as such. Political parties' points of view were put forward by the political representatives of the parties. I am not cutting you out, but I am requesting that .????.....
Mahlangu?

Mahlangu:

Maybe, just to refer to what you are saying, Mr Chairperson, that the CPG does not represent specifically any political organisation. That is very important, they are dealing merely with the matters that pertain to the region and therefore they have to look at the matter very independently, make their own recommendations and those recommendations as we are aware, will come to the Constitutional Assembly or Constitutional Committee first, where they will also be debated there and that at the ultimate end that will be debated in the Constitutional Assembly where all political parties are represented and everyone could have a say there. I think you are quite correct in saying they are actually not a political body, but they are doing things independently, but at the end of the day, political parties will have to discuss or debate on the recommendations which will be forwarded to Constitutional Assembly.

Secondly, may I start by complimenting the Secretariat for the wonderful report that they place before us now, and the clear roles which Mr Hassan has been explaining to us what the Chairpersons have to do, the Core Group, the Theme Committees themselves, submissions by the political parties, etc. I am not going to comment on each of them, but may I say that they are doing a wonderful job, that is excellent. I think they are assisting us as a Theme Committee to take this process forward. On behalf of this Theme Committee, if all people agree, I would like to compliment and congratulate him on that issue and that most of all, he is making himself available, Mr Chairperson, when we want him to come and explain certain issues.

Thirdly, I wish to comment on the document entitled the Synopsis of Submissions. On behalf of the ANC, I think at the moment administration started very well. In my mind I wouldn't see each member of this Theme Committee going through each submission, reading day and night and actually drawing his own synopsis of the submission given by the public or by the political organisation.

Chairperson: Sorry, my brother, May I request those members who didn't get the ???? Please, if you can just fetch them because as he speaks now maybe you want to browse through it, now we don't have it in front of you. I am sorry, Mr Mahlangu. May I just request the members ... thank you. Give him one ... You can carry on ..

Mahlangu: OK, what I wanted to say on behalf of the ANC, I think the administration producing such a document is also an excellent work, Mr Chairman that they have done. We are talking more or less of seventy submissions that administration has received now and I think they are pouring thick and quickly every day and it is really going to be very difficult for each member of the Theme Committee to go through each submission, read it himself and try to come out with a synopsis of what he wants. I think really what they are doing, the summary that they are presenting to us, will definitely help us, because what one could do, one could then refer to the summary that they are having and there are points that one needs to go deeper into it, then refer to that particular submission, read it himself, go deeper, but already he has the major points tabulated from the synopsis document. So, we would like to say at the moment I think the document is very good, but as Mr Hassan has requested, that if we would like to bring forward recommendations of improving the way in which they draw up this synopsis document, if we do find something in the future, we would do so but at the moment we are very happy. I think it will definitely assist us.

Lastly, which is the fourth point. Last year, we agreed that in this Theme Committee and we also, the Constitutional Committee, agreed that some of our members are finding it difficult to attend our Theme Committee meetings at 08h30. Especially, our women representatives because they have to wake up in the morning, prepare their children and take them to school and do all of that and we have agreed that we could start at nine. I wonder whether couldn't we follow this time again if I may ask administration whether they would have any difficulty, the

decision which I am actually reviving we did decide on that last year, we agreed upon it. I would just like to hear from the administration whether do they have difficulty in that regard.

Chairperson: Before you respond. Mr Mahlangu has touched on three important points, which I want to ask the house for us. He talked about... He said that the ANC has to approve the synopsis as it stand at the moment, but there is an open door that if it needs an improvement, it can be improved. Is there anybody who is against that position in this moment of time? So it will go through, the synopsis as it stands.

Speaker: We have just received it to approve or disapprove it, I think Mr Mahlangu expressed his appreciation for the effort which the secretariat is making and approves of that, but not necessarily the detailed contents. He didn't make any statement as to the accuracy of it or not and the committee is not in a position to approve or disapprove, but we agree with Mr Mahlangu that I think it is excellent initiative taken by the Secretariat, otherwise we would have been faced with an impossible task. Thank you.

Chairperson: Are there any questions...

Theme Committee 2
25 January 1995
(Tape 2)

Ebrahim:

I accept that point and may we just say that on behalf of the administration we are quite flattered that comments have been made. Chairperson, the way in which we have drawn up the schedule of events is merely a guide. We cannot predetermine for a Theme Committee that they will exactly need four hours for a particular session and certainly it is up to Theme Committees to move their schedule half an hour either way or an hour either way and if absolutely need be even to abandon a particular meeting if there is need. From an administration point of view we are in no position whatsoever to prescribe to members exactly what they should be doing and where they should be doing it. If a theme committee feels that they could accommodate the change or the delay in time, then certainly we will have no difficulty with it, provided that our administrative staff are informed accordingly and we could make the necessary arrangements, such as recording facilities and catering and so on. So we certainly would have no difficulty with any changes effected by a Theme Committee to its times, provided that that change in time does not clash with the other times that we have set, because we had to go through a very agonizing experience of trying to fit in members as best as possible for the various Theme Committees, taking into account various members' commitments and even then we are having difficulties and we hope that this is a workable arrangement, but certainly moving a meeting an half an hour is not going to effect the schedule or the programmeme in any significant way.

Chairperson:

..... we raise a hand my brother That is the only thing, the button ... there is so many buttons.

It was just on the side of time as Mr Mahlangu has already stated, it is alright. And just to add on that is that Parliament is opening on the 17th. Why are we in a hurry now of half past eight. Can't we make it nine? Thank you. Colin ...

Eglin:

Chairperson, I support Mr. Mahlangu. He is a little bit naughty, because last year we used to meet at eight. And we hear the heartrending appeal about the ladies and their children so we change it to 08h30. I think 9.00 is a good time, it actually allows you to get to your office and to look at papers and things like that before you come to the

meeting. So I would support the nine o'clock.

There are just two points that I want to raise. One arises out of my colleague over there - the issue that he raised on the report of the workshop, where it was recommended that the CPG would decide on the powers. I wasn't at the workshop. As I understand it, that relates to the powers that have to be exercised under the existing constitution. And is not a recommendation as to what power should we include in the next constitution. That could be in due course, but I think this was a workshop on local government provincial matters and who is sorting out the present state of affairs, it was suggest at the CPG. It actually uses the words "should decide on". Well clearly they can't decide on in respect of the next constitution. Maybe useful, but I don't think it is intended that way. The only other point I would raise in this article is Mr Ebrahim was here, and that is I think most of the theme committees identified issues which were cut across the various theme committees. They were common to a number of theme committees and the question is "Who must take the initiative?". The form what I called may be joint sub-theme committees to deal with particular items. Mr Ebrahim mentioned that when we invite the public, we must take into account that they can't appear before separate theme committees, but there are a number of issues I haven't mentioned. I don't want to raise the ... issue, but the issue of traditional leaders and customary law actually falls under four theme committees. Now, I want to know who takes the initiative to create a Body Representative of those four committees to get on with that particular subject? Is it going to be left to Management to come forward with recommendations, or must a particular theme committee which might feel strongly about it, take the initiative and say to Management do something? But where does the initiative lie with the items which run across a number of theme committees?

Ebrahim:

Thank you Chairperson. I think that is an important point, because it effects a number of theme committees and the issue relating to traditional authorities is a particularly central and important example. Chairperson, the approach adopted in this recommended work programme is considered three possible opportunities. The one opportunity is that each - one scenario - is that each theme committee will discuss in its own writing terms of its own terms of reference and that theme committees will deal with the same matter separately and that in itself has it's

own demerits. The second is to establish to do it jointly. The theme committees could meet together and deal with all traditional authority matters pertaining to traditional authorities on a joint basis. The third possible scenario is to actually establish separate possible committee commissions or territories to deal with traditional authorities. The fourth, is to try and identify a theme committee who will be best suited to deal with a particular aspect. The example of customary law and traditional authority is something that perhaps affects the judiciary and the legal system. So, to exclusively allow theme committee 5 to deal with traditional authorities and customary law, because it is within their ambit and parameters of their discussion to deal with it exclusively. To deal with traditional authorities, if one conceptualises it as a structure of Government, and many may argue that it is, and perhaps should put in theme committee 2 exclusively and say to other theme committees not to deal with it. But the question that, if I understand Mr Eglin properly, that is being asked, as to who will decide on that is my understanding is that the Management Committee will decide because it is responsible for process. However, I don't believe that the Management Committee will take a decision without considering views that are put forward strongly enough by a particular theme committee and I hope it will take that into consideration when he defines this. But, being such an important matter which affects theme committee 2 in a number of different areas as well, it is an aspect, which I hope this Theme Committee will consider very seriously, simply because the number of occasions whether it is electoral systems, traditional authorities, Volkstaat, structure of Government, separation of powers, almost all of these aspects, have some bearing or relationship with matters being discussed in other theme committees. My appeal would be: decide on your work programme as best as possible. If you feel particularly strong about any particular aspect, then certainly let it be reflected in your minutes or a memorandum issued to the Management Committee, so that the Management Committee sensitise it. I would urge members to do that as early as possible, simply because we can't be continuously dealing with process matters throughout. We have got to bring it to a finality and allow members to actually deal with substance completely and properly. So, I would urge some speed or urgency in that and whatever we do, let us look at it in a way which will allow the Constitutional Assembly to most efficiently and effectively deal with the matter. Some of the considerations that we have taken into account when producing this recommended work programme, has been

the facility of allocating a particular matter, for instance in a case of traditional authorities exclusively to theme committee 2 asking to deal with it properly in its entirety. But also, to deal with it at roughly the same time period at which traditional authorities and customary law will be dealt with in theme committee 5 when looking at legal systems and jurisdictional structures as well. And the reason for this is that if we deal with it at the same time, you cannot expect traditional authorities to come several occasions just to discuss particular aspects. The proper thing would be to call traditional leaders once and to say with regard to structures of government, what's your view with regard to structures of a jurisdictional system and customary law, what's your view. We cannot call them separately, so it also makes for efficient organisation of the public participation programme. So there is a whole host of factors which members should take into account, when actually putting forward a recommendation and looking generally at the end of the day, how best are we going to advance this process and how are we going to be most efficient about what we are doing? Thank you, Chairperson.

Chairperson:

Thank you very much. May I then request for now, that we move a little bit forward and hear the report of the Core Group? Unless there is anybody that wants to ask the Executive Director before he excuses himself, because I have trapped him to be here. Is there anybody that wants to ask any questions? Well, thank you very much.

Then we come to the Core Group report. The Core Group met yesterday and they dealt with some issues for instance, the work plan and the scheduled meetings. Do we now agree that our meeting should start at nine o'clock if it is in the morning and it starts at two o'clock if it is in the afternoon? Do we agree with that? Thank you very much.

Speaker???

Some of the meetings are arranged for 18h30 - so that will be left so. 18h30 in the evening.

Chairperson:

I think in this moment in time we are specifically for a morning meeting and the afternoon meetings maybe if you want to talk about that, I will allow you to talk about it. But, I think specifically for the morning meetings because they are a little bit of a burden to all of us. Do you agree? Thank you very much. May I therefore take this opportunity of reporting about the Core Group meeting that took place yesterday? And I will ask Colin Eglin to be the first one to raise points that he raised yesterday in a Core Group which

are pertaining to traditional authority and electoral commissions and then thereafter we will come back to other work plan and schedule meetings, and then submissions. Colin ..

Eglin:

Chairperson, on the question of traditional authorities it was much the question through you I put to Mr Ebrahim and that is "Do we just carry on on our own, or do we get hold of the other three sub-theme committees?" We also got a briefing in respect of it. It would be my view that there should be a joint sub-committee of those four theme committees dealing with a particular issue. So if you could say, three from one, three from the other, three from the other, making their preliminary report back to their theme committees, because at the end each theme committee must make a decision in it's own area of competence. Mine was really a question, how do we get it going and I will still favour the concept of appointing a certain number from each theme committee to do the preliminary work and to decide on public hearings and then they could feed information back to the committees. That was the one that I raised. What was the other one, that you asked me to mention?

Oh yes well, the Volkstaat which actually doesn't appear in our regional terms of reference, except under the general heading as structure of government, you could say they should be Volkstaat, but I just have a view that the reason the Volkstaat has now put in a specific form is because under the present Constitution there is a Volkstaatraad set up to see whether it is feasible. But I frankly don't think that we should precede ourselves with the Volkstaat's concept or Raad until there is a report from the Volkstaatraad whether the Volkstaatraad is charged with looking at this matter. But I think, when we get a report from them we should decide how we should deal with it. But I think we should in fact, start getting involved in the Volkstaat until that Raad comes back to us. That is my view, but I don't think we should anticipate what their recommendations are going to be until we get them. When we get them, we should decide how we are going to process it.

The other one is the Electoral Commission, or the electoral system you'll see that we have. If you look at the terms of reference, it flows from principal number 8. This reads "there should be representative government embracing multi-party democracy, regular elections,

universal adult suffrage, a common voters role and in general proportional representation. So around that principle, one will have evolved in an electoral system.

Speaker???

I just want to point out, we are a bit confused. One would imagine, I am a bit in doubt. Clearly, one would imagine one would get the gist of what actually transpired in the Core Group meeting before we get the kind of concerns that Mr Eglin is raising now. So that we could get a whole picture of what is actually being discussed in this point of time. I am a bit confused, because we get the concerns of Mr Eglin first before we actually have the report of what took place in the Core Group meeting which puts us a bit somewhere, I don't know.

Eglin:

Mr Chairperson, I would be quite happy, I wasn't going to raise these, but was requested by the Chair to do so. But if there is a different procedure, I would be happy with it.

Chairperson:

Thank you very much, my brother. I do understand. Well, let me just put it this way. In our Core Group yesterday we dealt firstly with the briefing that the Executive Director has given to us. We dealt again with the work plan that is in front of us now which we have to approve if we want to, or if we want to change it changing the matter that it will suit us as a theme committee but not too much to upset other plans of other theme committees. And we dealt with the points that were raised by Mr Eglin, Election Commission, Volkstaat and traditional authority. He raised the points of the commissions and then the meeting said that it will be better if he raised it here at the theme committee so that all the theme committee members will have an input on that idea. We dealt extensively about the submission of the political parties, because our theme committee meetings depend entirely on the submissions. We may not have continuous meetings if there is no submissions, because we have nothing to talk about and then lastly, we dealt with public participation and our idea as a Core Group was that it will be wise then if we think of embarking on the public participation, we'll make sure that other theme committees who are doing similar things that we are doing as a theme committee 2 are with us so that to minimise the calls and then make sure that everybody is represented when we are going to the public. And we said, we are going to prioritise our work plan in a manner that it coincides with other theme committees and then forward them to the management as soon as we can do it, but open the door that what we are doing is still open for debate and

is not saying that that is a final thing that we are pushing forward. That is really a Theme Committee's deliberation for it yesterday and we bring it forward to you as bits and pieces so that you are able now to deal with it each item by each item. And again we said yesterday, as Mr Muhlenga was saying, that only synopsis we said that it was a good thing, because most politicians don't have time to read all the documents. And if it is put like that in a priority manner or if any member wants to go deeper than that he can ask for the submission himself and read it through. By the way it is put now it's favourable to most of us who are lazy to read and who wouldn't have time to read the whole submissions as they've come in. I hope I have presented the Core Group meeting well, but I need the backing from them, if there is anything that I leave behind, to raise that point so that the Theme Committee will be in the same eye as we are.

I gave it to the Chairpersons who were there yesterday. The Core Group Chairperson first. If there is anything that I left behind, to add on; if there are things that they think I put it wrong, to correct it.

Speaker?

Well, Chairperson I don't think you left anything, but I think referring to what Colin is saying right now. I think you were actually... The Core Group was looking at the entire blocks that we have to present. If you look at our time schedule of meetings and discussion in all those blocks that are there. If you take for example the traditional leaders question which Colin is referring to now, the third line for submission and the end of that block, it is block 3 is the 1st of March. Now, if you really look at that time right now, from now until the first of March, you are talking roughly about 30 days or 32 days, something like that. There is not much time left and for the sake that the question of traditional leaders overlaps with other Theme Committees, it is therefore very important to start that process going on right now so that when we have to deliberate as a Theme Committee ourselves, the question of the traditional leaders, the process of interacting with other Theme Committees must have taken place. We know exactly which matters are we dealing with as this Theme Committee and which matters will other Theme Committees deal about. All we will need is a different structure to deal about that, so that it can enable us time when the time of drafting a report comes, we are ready to do that. Same to the question of the Volkstaat and the electoral system, I think that was the background of the whole issue, looking at the whole

schedule of meetings, the ending of the blocks and all the latter. I think he was actually trying to raise that point so that we could see how crucial it is to take that process forward.

Chairperson: Thank you very much sir. Mr Beyers ..

Mr Beyers: Yes, Mr Chairman I want to add to that and that is that we will see that the Volkstaat forms part actually part of block 4 and if we follow the proposal of Mr Eglin it will mean that when we come to 15 March, a report of the Volkstaatraad may not be ready or at our disposal, because I somewhere read that the 1st Report will be ready, I think at the end of March. So it will affect our work programme if we accept that, I have no problem to accept that, but then we should look at our work programmes again as far as that is concerned.

Chairperson: Thank you Mr Beyers.

Tolo: I thought that the request was for you to clarify first of all what the Core Group discussed. We will then go back to Mr Eglin who will then put forward his proposals, we will then discuss that. So I think we should wait for, if we finish we get the Core Group report from them, then we should go back to Mr Eglin let him put his proposals and then we can discuss them accordingly as to whether or not to propose ???

Chairperson: Thank you very much, Bishop. I let Mr Mahlangu speak and Mr Wessels, because they were in the meeting of the Core Group to elaborate more than what I did and I think now before, you are definitely right, before I point anything out to anybody else. May I request then that the proposal and the thinking of Mr Eglin to be put forward in the Theme Committee so that we will debate it now in a proper way. Colin ...

Eglin: Just one point of your report which I doubt, I don't think it has come across and that is the Core Group came to a conclusion that until the political parties had made their submissions even their initial submissions there really couldn't be very much meaningful discussion here, because at the end we would have to have a discussion and a consolidation of the various inputs to present to the Management Committee and then to the Constitutional Committee and therefore it was to impress on parties the importance of getting in their submissions on the first block,

and that is the question of separation of powers. Because until we've done that we can't really proceed. I just wanted to make that point, which should arise out of your report. So, my comment was really if you look on this yellow sheet, page 14, it really arose out of looking at the work programme and those of you who were at the Constitutional Council on the 2nd of December in Pretoria, it was agreed that the only part of the work programme that was fixed was block number one and that all the others would depend on how the Theme Committees saw progress. All I did, and I got no fixed views on it, I look at traditional authorities and I see that it is certainly going to be relevant to number three although it is not mentioned, because it deals with Provisional and Local Authorities, it's relevant to four and it's relevant to five, and I thought at some stage without being prescriptive, we should apply our minds to how we are going to get involved in that particular responsibility in association with the other committees. I just raised that because I think we have got to discuss it. I would either say that the Chairmen of the three/four committees that are involved should have a preliminary discussion and come back to their Theme Committees to say how they think it should be handled or else we should come with a proposal. Further, on the Volkstaat it isn't a specific part of our mandate, our general concept of self determination belongs to Theme Committee Four. But a specific issue of Volkstaat doesn't appear in our original mandate but there is an item on in the present Constitution in which somebody in the Volkstaatraad is investigating. When I look at our programmeme, I wouldn't put Volkstaat right up front. I put it to be discussed as and when we get a report from the Volkstaatraad. It is really the timing of it. And the last one, was the electoral system. We had originally recommended appointment of a commission which could be partly members of the Assembly, and it could be partly technical experts. Whether it is a commission or whether it is not, we have to have an electoral system which involves as they say, universal franchise, common versus role, proportional representation and if I listen to what happened yesterday, there is a very strong feeling that it should also involve some direct constituency representation. That is what I sense is happening. And if that is so, all I want to say is whether appointing a separate commission, or asking the technical experts to press their computers to come up with some kind of report of electoral systems, there may be one to three to four to five of them which meet these particular requirements so that at least we got that technical input which can be put alongside the

political input that comes along. The question "do you establish a separate sub-committee or a commission to do it or do we merely ask the administration?". I say they have got access to information from various sources to present us with a report of alternative systems which are in practice in other countries to give effect to that particular one. But what I don't want is that when we get to that, we still find we haven't got the basic information on which we must make our findings. So that was really to try to see how we would handle those three things, because the essence of this committee's responsibility is going to be under two and that is the structure of Government and that is going to take a long time and really how do you process the other next three while we are getting on with the structure of Government.

Chairperson:

Thank you very much Mr Eglin. I think now let us put ourselves in three categories. Firstly, let us deal with the thinking of the traditional authority, and secondly, let us deal with the Volkstaat and thirdly, let us deal with the electoral system. As soon as we have dealt with those three, then we will be in a better position of knowing where we are.

Speaker?

Thank you, Mr Chairman. Mr Eglin mentioned the Volkstaatraad and when we debated the act on the Council for traditional leaders in the House, I asked that we should also try and consult with them on how they feel about the new Constitution and maybe we must take the guidelines that Mr Eglin put forward for the Volkstaatraad, also to the Council of traditional leaders and maybe ask them also to have a report available on the specific working of Theme Committee 2 in order to have that information available on our tables when we are going to discuss the whole matter of traditional leaders.

Speaker?

Thank you Mr? I also go along with the idea put forward by Mr Eglin that we need to form a committee made up of the representatives from all the Theme Committees to look into all these things. To look into the question of traditional leaders, because though he has mentioned that all the other committees, except number one, do affect the question of traditional leaders. One may even say even Theme Committee 1 might be affected, because someone might say that the foremost date, the corrective date that we want to be the constitutional monetary or something like that. So, I think what we need to do is to consider the possibility of setting up a sub-

committee that is going to be made up of all the representatives from all the Theme Committees that we have. To come back to the question of the council of traditional leaders, I think here again we need to add whoever is responsible for the establishment of the council of traditional leaders to expect that, I trust this because we might take decisions here or we might delay taking decisions because of the effect that once the council of traditional leaders start sitting it might oppose some of the decisions that we might have taken. So, it is important then that this Theme Committee take a resolution to the effect that the responsible authority must expedite the establishment of the council of traditional leader. Thank you.

Speaker?

On the question of traditional leaders, I agree with that suggestion. I think we need a sub-committee to specifically look at that. And certainly , also the suggestion that the council of traditional leaders should be formed, because they haven't been appointed yet and I think that is extremely important. So I would support that suggestion. When we discuss the Volkstaatraad I have specific suggestions to made as far as that is concerned.

Chairperson:

Mr Mahlangu

Mahlangu:

Mr Chairperson I really don't differ with the previous speakers, but I would prefer that maybe there is a way forward then we take the proposal which Colin Eglin made the last to say maybe we mandate at the present moment the Co-Chairpersons to arrange with administration and particular you, Mr Chairman, today because you are in the Chair, ask the administration to see with which other Theme Committees does the question of traditional leaders overlap, it may be four or three committees, and then get those Co-chairpersons altogether. Have the first meeting, if possible still this week, because it is a matter of urgency. Discuss that matter and report to the various Theme Committees and then agree on that question; all of us agree whether we are setting up one committee that will deal with the question of traditional leaders or we are coming up with a commission or we are coming up with what someone would ever agree upon because people might have different views. So I am suggesting that first and foremost now, we co-ordinate all the Co-Chairpersons, have a meeting and discuss this question and finally I think as Mr ??? has always said Management Committees have also a hand to play in the question of overlaps and I think it would

be appropriate that the Co-chairperson first meet with them, take the views of different committees as we are discussing here. Possibly as Co-Chairpersons of this group put forward what our Theme Committees thinking what we should do. They will also have their own views and we will report back to our different Theme Committees.

Chairperson: Does anybody have a problem with that motion? Is it carried? Thank you. Then we come to Volkstaat.

Groenewald: Mr Chairman, I had discussions with the Volkstaatraad in late December and I don't think we have to worry. They will have their first preliminary report ready by the end of February. I think it will be in time according to the time frame set in these particular blocks for a discussion of a Volkstaatraad, but obviously they are also receiving inputs from a large number of organisations and that is what is delaying the final report. You will remember, that we also refer in this document to pages 27 - 28. We specifically mention the large number of organisations that have to be consulted. Now obviously a lot of them will have inputs specifically regarding self determination and the Volkstaatraad and my question is have they been approached in any way to make submissions?

Chairperson: Thank you for the question. Thank you General. I think the only means that has been provided by the Management Committee and the Constitutional Committee was the advert that was done world- or country wide. I think that is the only means, but I will find out for you and maybe we will come back to the next meeting about the answer of it.

Groenewald: Could I perhaps then just suggest, Mr Chairman that the Theme Committee leave it to the Core Group to make sure that submissions are received from that particular organisation and then we also accept specifically that the recommendations by the Volkstaatraad will be ready by the end of February.

Chairperson: Thank you. Pahad ...

Pahad: Mr Chairman, strictly speaking the question of the Volkstaat does not really come under Theme Committee 2, very strictly defined. We agreed because we thought that there will be possibilities of some kind of overlap with regard to functionings in terms of Local Government. What I think is necessary is for us not to always re-invent the wheel. A Volkstaatraad was specifically set up to deal with

the entire question of the Volkstaat and to make recommendations. Indeed, I would suppose that the very organisation that the Freedom Front had proposed whom we should approach with the view to making some kind of input, the Volkstaatraad presumably would go and ask those people. And I think we would just be repeating ourselves if we went and asked the same people to make some submissions to us. My own view would be that if Mr Groenewald is correct that the Volkstaatraad will produce the first report at the end of February we should actually wait for that first report and having received the report we can then try to see what parts of those reports are relevant to this Theme Committee. I don't think it will help us to discuss the entire report and certainly not those elements of the report which are not directly relevant to this particular Theme Committee. So my proposal would be, that in so far as the question of the Volkstaat is concerned, we wait for the first report from the Volkstaatraad which comes at the end of February. On the basis of the report that is produced, we can then see how we as Theme Committee 2 with respect to the areas defined by us can or cannot take forward certain issues and that we don't then start dealing with, asking for submissions at this point in time because the Volkstaatraad is set up to do that and my impression is that they are in any case doing a great deal of work with regard to this particular area. So, I want to repeat, I propose that we wait until the end of February for the first report of the Volkstaatraad to come to us. We then study that report and see what parts of that report are relevant to this particular Theme Committee.

Chairperson: Thank you Mr Pahad. That is another proposal. Is there anybody who has a problem with that proposal? Mr Beyers

Beyers: Mr Chairman I will support it but for a different reason. I think it is important that we should look at the report of the Volkstaatraad and I am glad that it will be available at the end of February and therefore we do not need to change our work programme. But I think the whole question of the Volkstaatraad and other forms of self determination is part of our terms of reference because of the fact that it may affect the very important aspect of the structure of government. So if we get proposals from any other organisation, from the Volkstaatraad or any other organisation, referring to some forms of self determination or the Volkstaat etc. this Theme Committee should also look at that. So, I support the de facto decision by Mr Pahad that we wait until end of February for the report of the

Volkstaatraad, but I don't think that we should, if we get other reports, ignore them because it doesn't appear in our terms of reference. I say that any proposal effecting the structure of Government is part of our responsibility.

Chairperson: Thank you very much. General ...

Groenewald Mr Chairperson, I also support the recommendation made. But I just like to point out that the Constitution determined specifically that the report of the Volkstaatraad must go to the Constitutional Assembly. In other words, it is this body that will have to discuss the recommendations. Now the question is exactly to what Theme Committees does it go? I will ask General Viljoen to take up this matter in the Management Committee so that decisions are made there as to exactly where the reports should go and how they should be handled. I think that is important. The second point and argument I'd like to use is there are various Statutory Bodies like the Commission on Provincial Government who will also make reports, that does not take away our responsibility to look at the new Constitution and every single aspect of it. So, I don't think we should leave it up to the Volkstaatraad to complete all the recommendations. It is our task to also do that, but I accept that we wait until they have submitted their report. Thank you.

Chairperson: In other words, if I listen to you properly, you have said that we have to wait for a Volkstaatraad to come with the report at the end of February, but all inputs that are being submitted to us as Theme Committee 2 we will look into them and deal with them as all other submissions that are coming forward to us. Is that what you are saying? Does anybody have a problem with that ... ? Yes?

Speaker? Chairman, I have a problem, because it seems that we've got members of Volkstaat here in the Council who have been sent to come and tell us that submission will be here the end of February. As if somebody have been sent of Volkstaat ... I don't know if you understand me? Mr Chairman, I say it seems that there is somebody that was sent by the Volkstaat who brought back the message from the Volkstaat that their submission would be here end of February.

Talk in the background.

Chairperson: Now I understand. No, I think ... sorry, no No, no, no..... sorry.

Ladies and Gentlemen, everybody has a right to speak his mind and we must be very careful to listen to that person. I understand what he is saying ... he is saying that it seems as if somebody has been sent by Volkstaat to tell us that the report will come at the end of the month. My response to it, my brother, is that we are discussing about the schedule for Theme Committee 2 and you are saying about the Volkstaat that why don't we take the Volkstaat idea back to the folks of right to deal with it and come back to us with their report and accept the submission of other people which contain the thinking of the Volkstaat and deal with them accordingly as all other submissions but at the end of February we have that report in front of us and we deal with the issues that pertain to our Theme Committee and we leave the others to somebody else to deal with them. That is only what we are talk about here as all members of the Theme Committee 2 come from different political parties but not from the Volkstaat as such.

Is there any problem with the idea that we all agree that we will wait for the Volkstaat at the end of February to give us their report but any submissions that are coming through from other areas, we deal with them accordingly as we deal with everything.

Speaker? Mr Chairman, I just want to emphasise maybe it is confusing you, it is not the Volkstaatraad maybe that is confusing you ..

Chairperson: Thank you very much. I think we have completed that second sub item, now we are going to the electoral commission. There is an idea that when we talk about electoral system, which is on block 5 in our schedule, that why us as Theme committee think of having a commission that is Colin Eglin's idea which he espoused yesterday to the Core Group and the Core Group said it would bring it back to you to decide about it or to say something about it. We are not pushing it to decide today, we can think about it, we can talk about it, or if you want to decide about it, you can decide today. The Commission for it says thinking the commission should have an electoral system or think of anybody a group of people coming together and talk about it and come up with a report to the Theme Committee and then present it and then we deal with the report as we have been doing with other things. Ask Mr Eglin to explain.

Mr Eglin:

Mr Chairperson, I don't want to make an issue of a commission or not, although oddly enough this Theme Committee did recommend a commission. I would actually prefer starting, especially now that I hear that we almost got a computerised international library over in Regis House where the CA operates, we should first go to the Management and say is it possible for them to give us the technical information of how these systems work in other places. In other words, if they can provide the various parties or this Theme Committee with how it is done in other ? Germany, in farms, X Y Z we obviously don't need a special body to do that . So I would first say that we should just go to the Management and say have they got in anticipation of us having to apply our minds to this issue, can they indicate to us whether they have access to information on systems in other countries which may be relevant to us. So my suggestion would be first to go to them and ask them what library information they have which may be useful to us and then to decide whether we can handle it ourselves or whether we want a sub-committee or a commission.

Chairperson:

Again, that is another proposal. Ndlovu ??

Ndlovu:

Mr Chairman, thanks. I would like to suggest that we should be clear in our minds if we talk about the electoral commission whether there is any overlap on this commission on Provincial Government if we take into account that the basis for the Local Government election would probably be in a way be prescriptive towards the total election. What is the emphasis on the election?

(Tape 3)

Chairperson: Again, that is another proposal. Msomi

Msomi: Mr Chairman, thanks. I would like to suggest that we should be clear in our minds if we talk about the electoral commission whether there is any overlap on this commission on Provincial Government if we take into account that the basis for the Local Government election would probably in a way be prescriptive towards the total election. What is the emphasis on the electoral commission, will it exclude the Local Government election or will it only concentrate on the National Election?

Chairperson: That is a question

Mahlangu: If I could assist there. Now, Mr Msomi's question is very wide, but if you look at the recommended work plan, if you look at your block three under traditional leaders, I am sorry block three, under the Theme Committee 3 they actually also say that they will look at the Provincial Legislation authority excluding electoral system and other the question of the Local Government, they are not even saying anything about the elections there, but the electoral system is purely the sub-theme of Theme Committee 2 to deal with that. I don't know whether I do understand Mr Msomi correctly, but at the moment we are dealing with the electoral system at a National level, as I understand it.

Speaker?: To enforce that, if you look under Theme Committee 3, item 7 there isn't an electoral system of Provincial Government. In fact there may be different electoral systems in Provincial Governments one day and there may be different Provincial systems. What I understood in our mandate in terms of our original mandate, that the electoral system is the electoral system for the National Government. Whether the others follow that one, whether they got different ones, is for other Theme Committees to recommend.

Chairperson: I think, have you got the answer Mr Msomi?

Msomi: Mr Chairman, I have .. I just think that if we were to accept that then I think we are not addressing the possibility of the overlap if other Theme Committees are going to be discussing the Local Government election and in fact it may impact upon the National Election if the emphasis for our purposes are on National Election and bearing in mind, that

certain powers have in fact been excised from the Home Affairs to the Provincial Affairs department. I am saying here if we are considering this issue, let us be very clear in our minds as to the mandate for the Theme Committee 2 and the possible impact on that mandate by the work of other Theme Committees.

Chairperson:

I want to assist here, although I am the chair, I am put in a very bad position. I want to assist here. I think what we are talking about here in that block, block 5, which is electoral system, Theme Committee 2 has to come up with a system together with the other Theme Committees, that will be suitable for the country to run the election properly. If it will be proportionally, Theme Committee 2 with other Theme Committees have to say so. If it is whatever they think about. That agreement should come from Theme Committee 2 and other Theme Committees which they are overlapping with us. Come together and say that tomorrow when we think of elections, if I say tomorrow, I mean next year, it can be anything, tomorrow when we think of elections this is the way South Africa should do their election. How we should carry it out, how we should do it, and how we should proceed in doing it. In other words, according to my thinking, it does not at this moment in time, we are not dealing with the election that will take place tomorrow, in October. We are not dealing with anything that will take place as from now until we finish this Constitution that we are drafting. Everything that we have, that we are putting down in this Constitution will be accepted will be implemented after the Constitution has been adopted, therefore we are doing the process of what all members or everybody, politically and otherwise, will adopt it and take it as the Constitution and then implement what is in there which is part of this which electoral system will be part of it. In other words, we are dealing with a very big body which will have to be accepted at the end of the day and then dealt with accordingly. I hope I am right by saying those things. General

Groenewald:

Mr Chairman I have no doubt that our task is the electoral system at National level. Theme Committee 3 specifically deals with Provincial Government and with Local Government and very specifically it is mentioned electoral systems of Provincial Government in point 7 of Theme Committee 3, so there is no doubt that we are dealing at National Level and Theme Committee 3 will deal at Provincial and Local level with electoral systems and they might differ. But I would suggest that as far as the possible

co-ordination which might have to be made, that we ask the Chairman to also just clear this out with the Management Committee so that they can determine the exact division of responsibility in this regard.

Chairperson: That is another proposal ...

Pahad? I think that we have to proceed from the basis of flexibility and not just rigid definitions that at some point we have agreed that some Theme Committee will look at elections for Provincial Government. Therefore I am in agreement with the proposal by General Groenewald that that might be an additional issue that the Chairs would want to take up. Because we might well be wasting a lot of time of people to go and look at Provincial Elections and Local Elections whereas indeed the kind of thing that I thought Mr Eglin was proposing may well look at issues beyond the National Election and it may well be that there would be some differences. It could possibly be that there are very little differences in terms of the Provincial and National Election, but we don't know that because we haven't started it, those proposals yet, so it might be to agree with the proposal by General Groenewald with respect to what he is saying that this is an additional issue that we would need to look at and see how and what kind of co-ordination can take place. I want to come back to the more general question that Mr Eglin raised, he is right when he said that we at some point did agree that we should have a commission, but I am very happy that he is now broadening it, that we are not just sticking to that. I think what we should agree, is that like all other matters of course it is a complex one, but the mechanisms with regard to electoral systems have a whole lot of very complex matters that are involved. If for example, there is general agreement, which there isn't at the moment, but for example there is general agreement that we should have both a proportional representation system as well as a constituency one so that you have a mixed system which is what every person ??? was proposing yesterday. Then obviously that requires us to study those systems, Germany has one, and the other countries that have it, and see what is more applicable for South African conditions. Now, it is very difficult in my view just from a whole set of constitutions of other countries, or articles by other people to actually get to the kernel of a lot of the arguments and at times you need to debate with some people. And my view would be to say to the Management Committee to start with, with a view to come into the Constitutional Committee. At the level of the

Constitutional Committee we need to address this question as a matter of urgency. We may well find that we don't need a commission. I am now inclined to the view we would necessarily need a commission, but we may well consider and I am here just thinking off the top of my head now, brainstorming, to go in the direction of some kind of workshop where indeed the systems could be explained in a way which then becomes meaningful to all of us. Not just reading them on a piece of paper and where it is possible to make comparisons between different electoral systems in different parts of the world. It could then become possible for us to consider, I mean there are organisations such as the ... in England for example, who have been doing a tremendous amount of work on proportional representation and its relevance to the constituency system too. You could then invite perhaps somebody from Germany. I am saying that we should consider that possibility of having some kind of workshop with people coming from outside of South Africa if that proves to be necessary or if it doesn't prove to be costly we need to take that into account.

Secondly, that as soon as our technical experts are in place, we could then ask our technical experts to look at the thing, so that they can come and make a report to us with regard to how we should move with respect to this. So my proposal would be really to support Mr Eglin's proposal here in the general terms that we need to ask the Management Committee and the Constitutional Committee to deal with this thing as a matter of urgency, even if it's coming later in the block because it is going to require a great deal of thought on our part as to how to work, because they in fact did have questions that will arise indeed how you delimit the constituencies. Our own experience of the National Party in this country is that after 1948 were very successful ??????? boundaries so that even with the minority of votes you could have the majority of seats in Parliament. We would have to look at those questions, because they have become relevant once you have constituencies about who has powers and under what basis can boundaries be altered so that political parties which exercise power at a given moment in time shouldn't have that much power that they can ship boundaries according to where they think the strand lies, because obviously if it is the ANC we would all go to Northern Transvaal where we will get 90%. So I am really saying that it requires a lot of detailed discussions here and my view would be to propose as a matter of urgency for the Management Committee to look at it with a view to making

some recommendations to the Constitutional Committee with regard to the process that should unfold as to how we should deal with this whole question of electoral system and together with the question that we might want to combine with Theme Committee 3. So, we can actually fulfil our task of producing something for the Constitutional Assembly.

Chairperson:

If I listen properly what my brothers and sisters are saying here, we are saying that we need to look at our electoral system as a whole and secondly, we need to look at if most of the parties are in power with the proportional representation and the constitutional debate that means that we have to request our technical committee when it is appointed to us to look at that and bring it to us and maybe from there we can take it to co-ordinate with the other Theme Committees who are involved in doing with the electoral system and then thereafter look at what steps forward we can take as a Theme Committee to co-ordinate with other Theme Committees. But not target ourselves or infringe ourselves by saying that we want to go the commission way, but to open our doors and say that we would deal with it this way. That is the way how I see it. I don't know if anybody has a problem with that, because it is a very wide system we can use that, we can agree with that at this moment in time, that the managers or the staff look at what is good for us and put it down on paper. Step 2 is that we co-ordinate with other Theme Committees and see how far we go. Step 3, if parties have put their position on proportional and constituency base we go forward to have workshops together with other Theme Committees and then we come up with a solution at the end of the day. Is there anybody that has a problem with that ...

Beyers?

Mr Chairman, I thought Mr Pahad was also suggesting that the Management Committee should be made aware of this particular issue so they can apply their mind in a collective way to the question, not prescribing but saying we will be here or ????? perhaps this needn't be discussed on the Constitutional Committee. So everything you have said yes, but I think we should also make the Management Committee aware of this issue and say if you have recommendations to put before the Constitutional Committee we would be pleased.

Chairperson:

Everything we do, the Core Group has to come together and formulate some sort of report to the Management

Committee too for their way forward, because everything that we do here it will come to be a brief report to the Management Committee and the Constitutional Committee at the end of the day for them to debate about these issues. I think we are in the same power on those three positions. May I go through now?

The item that I want to deal with now which I think it will be second to the last item, is submissions of the parties. It looks as if, I am not quite sure now, I need your indulgence on this and I am begging for it, it looks as if we don't get other submissions today, we may not have a Theme Committee meeting tomorrow. And if we are going to have a Theme Committee meeting tomorrow, I will require your good minds here and tell me what really we will be doing, because at this moment in time we have few submissions which I think it will be a good time or a spirit for us to read those submissions, but most importantly our political parties' submissions because they turn to take positions which are giving us a job to do as a Theme Committee to discuss on them and come out with credential or non-credential issues or maybe agreeing to everything that we are saying. If we don't have that, I am in the bad position of saying that we may not have a Theme Committee meeting tomorrow, but if we do have it what are we going to do know? Mahlangu ...

Mahlangu:

Well, Mr Chairman, that is a good question opposing, because our main duty is actually to start considering those submissions and I think you made your point at the beginning and yesterday also in the Core Group urging the political organisations and parties to submit timeously so that the Theme Committee has time to deliberate on those submissions and forward a report to the Constitutional Committee and if you look at the end of block one, it's actually, as I've said earlier, the first of February, that is next week Wednesday, we should be in a position to prepare the report and then got to block one. But my suggestion, or reply to your question is, would be, none of us would know at the moment how many parties have already submitted since yesterday. It is only the administration that would know and some other submissions might be coming in and pouring very quickly today and nobody of us will know in here, but the administration will know about that, because they are all centralised. It is administration that receives those submissions. Maybe, we should leave the scheduled Theme Committee meeting for tomorrow as it is, we will then be

guided by the submissions that have been received by the administration by the end of the day and tomorrow morning, then one will have to monitor that and maybe we just leave it as it is and then we come tomorrow in the afternoon, we can assess the number of the submissions that whether we can make a start with those that are there and start deliberating on them or not. That would be my thinking at the moment, would be influenced by the number of the submissions by tomorrow.

Chairperson: Thank you very much sir. General

Groenewald: Mr Chairman, even if we receive those submissions by this afternoon, we cannot read them through by tomorrow morning. I would suggest that we cancel tomorrow's meeting, the Core Group meets on Friday at 10h30, that the Core Group then look at what has come in and then decide on the meetings which shall then probably take place on Monday. But, I really see no purpose in meeting tomorrow if we simply do not have time to review all the submissions which we might receive.

Chairperson: Thank you, General.

Beyers: I support that standpoint, sir. I think that the point made by General Groenewald, I support that because I think that committee members should also have a opportunity just to read through the submissions before a meeting.

Chairperson: Are there any other points of view? There are two points of view now. The first point of view is that we leave the meeting stand as it is, we assess what submissions have been pouring in and maybe when we come in tomorrow we say no, we can't do anything with these few submissions, let us go back and think about it, we will come back next Tuesday and talk about it. The other point of view that is coming through again is that we cancel tomorrow's meeting, the Core Group meets on Friday and see what submissions have been submitted and go through it and then we meet on Monday if we talk about those submissions that will be present on Monday. I don't want to call for division, I want you to come to an understanding, because I want to agree on concensus most of the time. I am coming, my sister.

Groenewald: Chairperson, I don't want it to feel that I want to cancel tomorrow's meeting and have a holiday, but quite frankly

certainly in the smaller parties, we would like tomorrow to actually finalise our presentations, because we've been busy all the time with this thing and I think it would be a very useful day tomorrow for the various Theme Committees and I know other Theme Committees are unlikely to meet tomorrow for this very reason. Whether we should not ????? tomorrow is a day for seeing that those submissions are in order so that in fact next week when the Co-committee meets on Friday, they can see the submissions and next week we can have a thorough discussion of those particular presentations, so I would not think there is much a point in meeting tomorrow as this committee but there may be other work for individual members to do.

Chairperson: Shabangu?

Shabangu:? In the light of the last speaker, I've got nothing to say. In fact, we are going to propose, second Mr Groenewald in saying that we shouldn't meet giving that we don't have any submissions so far but I am saying in the light of what Mr Eglin has said it comes difficult for one to say anything, even that he's got something for us.

Chairperson: Thank you.

Mahlangu: My idea of proposing that the meeting should stand for tomorrow, was that whatever we have in front of us you don't have to take a decision as a Theme Committee but at least we could brainstorm on what is in front of us. Initiate discussions, start on something, because we don't really have time left for us. But it would appear that I am alone on that score, the majority outrules me that we should not have a meeting tomorrow, I agree with that Mr Chairperson.

Chairperson: May I take it as agreed that we don't meet tomorrow, the Core Group meets on Friday as scheduled and then we will meet on Monday at 9 a.m. to look through our submissions that we have? I think we all agree.

Pahad: Provided that two things should happen. One is that we should ask administration to make available to us then tomorrow whatever additional submissions they have received from political parties. The second one is that we should then ask the Core Group that the Core Group would have to look at those submissions, have at least some kind of preliminary discussion with regard to the submissions as to how we think the discussions themselves at the next

Theme Committee should proceed. So we actually don't waste a lot of time in the Theme Committee discussing how we should discuss, that that task should then be undertaken by the Core Group who will then come with some Core Group proposals with regard to how we should discuss the submissions.

Chairperson:

I don't think the Core Group has a problem with that, because they are meeting on Friday. We still have the whole tomorrow to see what is taking place. If there is nothing else, I will pray for your indulgence to close the meeting. And thank you very much for your co-operation.