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**AGSARB.dis**

**CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 6.2**

**FINANCIAL INSTITUTIONS AND PUBLIC ENTERPRISES**

**MONDAY 5 JUNE 1995**

**DISCUSSION: AUDITOR GENERAL AND SOUTH AFRICAN RESERVE BANK (SARB)**

- RD: R Davies (ANC - Chair)
- KA: K Andrew (DP)
- BH: B Hogan (ANC)
- LA: Law Advisers
- Legal: Law Advisers
- BN: B Nair (ANC)
- FJ: F Jacobsz (NP)
- MS: M Sisulu (ANC)
- CR: C Rustomjee (Technical Adviser)
- PW: P Welgemoed
- Pat P Fahrenfort (Secretariat)
- Gill G Marcus (ANC)

Abbreviations in text

- RB Reserve Bank
- SARB South African Reserve Bank
- AG Auditor General
- CC Constitutional Committee
- CA Constitutional Assembly
- TC Theme Committee
- CB Central Bank

**CASSETTE ONE**

RD Matters arising and particularly the AG text and then the presentation from the technical advisor on the RB. Then we have a submission from Mr Alant which is just for us to take note of. There's also another submission which I received personally from Mr Malherbe of Business South Africa. Mr Malherbe, I just got it, I'm just passing it round to -

KA No, I was also sent one but I didn't know who the individual was or where

RD Okay, is it thing that starts off RB independence and democracy its called

KA Ya

RD Okay, so that will be circulated to members of the members. Just to remind people that there is this meeting at a - this afternoon, this workshop which is being organised by 3, Theme Committee 3 on Intergovernmental fiscal relations. I think that - and also to remind people about the deadline for party submissions on that particular issue and also with the issue of the fiscal and finance commission. We have the minutes on page 3 to 4. I don't know whether anybody has anything amend in the minutes, page 3 and 4

KA No

RD Can we adopt the minutes

KA Okay

RD We've now got to spend - we agreed the maximum of about half an hour on the AG text. We have the operative text which we need to look at, starts on page 11. Its called the 3rd draft. I noticed one of Ken's commas is missing myself but there may be other things that people want to raise, there's probably a number of issues. But I wonder if we can do chapter by chapter as we did last time. So let's just note points in terms of text here. Under the heading **Establishment, independence and impartiality** those four clauses there, Ken

KA Yes I might just say on a number of things the legal advisors hasn't in fact put in what we discussed and agreed to go in. But okay there are two comments I have on this chapter. The first one is I'd like to propose the following that in 1.2 that we should split that into two sections so that you have 1.2 and 1.3 and then obviously other numbers would change. And I suggest that:

1.2 would read as follows: the AG shall be independent.

1.3 the Ag shall discharge his or her powers and functions impartially and without fear, favour or prejudice subject only to this constitution and the law. The other point is unrelated so do you want me to go straight on to the other point

RD Let's first take comments on that. Are there any comments on what Ken has just said. Okay then we agree to that

KA The second point is the first of 2 or 3 where I thought we made decisions which now have been ignored. Its the question of spelling immunities and privileges. And you will recall I indicated what the MP position was in the

constitution. Also what was - what is in the AG bill at present and the intention was that there would either be a cross reference to saying "shall enjoy the same privileges and immunities as members of parliament or whatever. It hasn't been changed at all. I would suggest that in fact we pick up the words from the AG bill which has recently been approved by all the parties. It would obviously have to be mutatis, mutandis kind of amended to get the correct context exact. But It reads "the AG any person referred to in s6 or any person acting under the authority of the AG shall not be liable in his or her personal capacity in any civil or criminal proceedings in respect of anything done in good faith (a) in the performance of any duty or exercise of any power imposed or conferred upon him or her in terms of this act or any other law (b) in giving evidence or an explanation or producing any document before the committee of parliament or of the provincial legislature in connection with the report of the AG". So that's how they worded. And obviously one would have to edit that wording. But it does actually set out what the immunity is against as opposed to just saying necessary immunities. And I believe we need either adopt that one adjusted appropriately or we should adopt what I suggested the last time was the thing from the constitution giving immunities to MPs also amended appropriately for the circumstances

RD Comments on that? Any other comments on that

BH What do you mean amended appropriate - that is edited appropriately

KA Well for example here it says "in terms of this act and any other law" you'd obviously - its that kind of technical wording you'd have to change

RD Okay then

LA When you say immunities, such immunities enjoyed by members of parliament, I believe you're talking about section - in this constitution here section dealing with immunities and privileges

KA I'm picking up my notes from last time the immunities - you've got to find the previous cross reference em yes s55.3 of the constitution.

RD I think that What we need is, is we need a general statement, I mean obviously I think when you say amended and so on and so forths any references to sections above would be removed and all that kind of thing would be removed. I think that we should say something about the civil and criminal - immune from civil and criminal proceedings in connection with carrying out their functions. But I think we should also leave a certain amount of space for some other aspects of the immunities and privileges

KA Well I think what one could - sorry to interrupt, We could perhaps say "such immunities are as are necessary for the purposes including and then include a couple from the

RD Okay that would meet what I am trying to say.

KA Okay

RD Is that Agreed. Have you got that

LA This one, I don't know if everybody's got the constitution

RD Probably - we can't assume so, read it out

LA But it says A member of parliament shall not be liable to any civil or criminal proceeding, arrest, imprisonment or damages by reason of anything which he or she has produced or submitted in or before to parliament, or any committee thereof or by reading of anything which may have been revealed as a result of what he or she has said, produced or submitted in or before parliament or any committee thereof.". Is this the sort of -

KA Yes well obviously the people trying to provide freedom of speech and immunities for members of parliament felt it was necessary to express it in that way, so yes one wants the AG and people to whom he or she has delegated powers to do his or her work should be covered by similar immunities. Otherwise - clearly a lot of either the evidence they give or what they put in their report is potentially defamatory and other things. And unless they protect it both in their written respect of their written report and in respect of evidence they give to committees at various levels of government, they could be enormously constrained. So yes that's the intention

FJ That is why we put that in the amendment of the AG

RD Ya But I think we're moving in a slightly different direction of what we suggested. I would propose it would be something like this. That we actually have another clause 5 which deals with this which would say instead of in particular "the AG shall be accorded by law all such immunities and privileges as are necessary for this purposes including immunity from civil and criminal prosecution or liability for any acts carried out in connection with his or her duties. Something of that order.

KA Is that a kind of condensation of this one from the AG bill

RD Ya, That's the sort of phrase I think we're looking at. So that there is some scope for "the law" to accord additional things. As long as this immunity from civil and criminal liabilities is specified as well

KA Its in Clause 3.7 of the AG bill which has now been passed

FJ But chairman what we would like to see now that the legal advisor puts that

into this. We discussed that last time as well and we haven't got there yet

RD Ya I know. That's what we're saying. We're saying this should go into the text now. Okay. That would then if we follow our numbering system, that would be clause 1.5 and then we'll have clause 1.6 "interference would ..." okay

BN Mr Chairman, I wondering you see whether we're if we're not making the constitution a bit unwieldy in the sense that the AG's bill adequately covers the very provision that Ken is thinking of - that is do the court, the AG the necessary immunity. Now For instance if you read this "in particular the AG should be accorded by law in the AG's bill and any other law. so if that is adequately covers the immunity why you know for the AG why make the constitution unwieldy

RD You want to strengthen the law so that the - all future laws would be obliged to include at least that immunity. I think that would be the point

KA Yes I think there's critical things of an AG - its the appointment, the dismissal, the not reducing their station and the ability to report fearlessly are the critical elements that you need in the constitution. And therefore the kind of fearless reporting has to involve an immunity - one needs that in a constitution. So that was my motivation for it.

RD Okay if we agree on that could we move on to powers and functions

#### **Powers and functions**

KA chairperson, there's just one small thing here and that it 2.1 just a grammatical one. Remember we re-arranged 2.1 and I think in the second line the words "state" after provincial is at least superfluous and also possibly not entirely - it complicates rather than simplifies. I think in re-arranging it sort of stayed in instead of coming out. That sentence was re-arranged

RD I think I can confirm that because I spoke to Grove and I made that suggestion that "state" should come out. All national provincial departments. "the AG shall report on the accounts and financial statements, of all national and provincial - actually no, I think we have to stay state departments, otherwise it could be national, provincial departments of the Old Mutual or departments of state or government departments or something. We have to make it clear that it is the public sector

KA Well if its necessary, as I say its a grammatical thing. Its not a - yes I don't know in the context of the constitution whether national and provincial departments and administrations could be construed to include private sector departments and administrations, but well its a -

RD Let's leave that as a question.

KA Its just that whether people referred - My problem really was whether at provincial level people refer to them as state departments. I mean do they refer to the Guateng department of education as department of state. I don't know. I don't know - its not something abnormally seen. If you say a state department I thought it normally referred to the national government. That's what partly caused my problem.

RD How about this then "of all national and provincial, sorry departments and administrations of national and provincial government, how about that

BH Of national, provincial and local government

RD No because local government then comes out - okay. Can we move now on to 3. Reports.

### **Reports**

KA Yes under 3.1 again I don't believe what we discussed and decided has been correctly interpreted here. Remember again there was a reference to how it was handled in the AG bill and I'd like to suggest that the whole of 3.1 be reworded as follows: "the AG shall submit all reports on audits conducting by him or her (a) to the appropriate authorities at the relevant level of government or (b) in the case of other institutions to the authorities prescribed by law, provided that whenever the Ag deems it to be in the public interest to any other level of government as well". Can I just make clear what we - I think agreed was

RD Is that the phrase from the AG act

KA The latter part is yes it is in essence. The phrasing - you have to re-arrange words and slightly to -

RD Comments on that - I think it is clear. It allows the discretion as well. Okay I think its clear, alright. 4

### **Appointments, qualifications, tenure and dismissal**

KA There are two points here. One is 4.3 and I apologise in a sense, perhaps I should have brought it up before. Could we just a little bit of discussion. I don't think its kind of controversial between us. Looking at this again, this is 4.3 "the AG shall be appointed of not less than 5 and not more than 10 years and should not be eligible for re-appointment". Now the IFP suggested that the AG shall be appointed for a maximum period of two 5 year terms. And the more I thought about it, the more logical that seems to me to be. Because not less than 5 and not more than 10 years - now when the

parliamentary committee is considering appointing an AG, what criteria are you going to say that this person is so good you're going to appoint them for 8 years or 7 or 9 or 10 or 5. And if you do appoint the person for 5, you're not entitled to re-appoint them. And I think the tendency will be to appoint people for shorter than longer periods. And I just - its not something I'm going to make big waves about. But its just on thinking about it, it just seems to be more logical to say you can - you're appointed for 5 years and you can be re-appointed once and then that's it. So you can go to the maximum of 10. But you don't have this business of deciding in addition to who you think should be the AG whether that individual should be appointed for any one of 5, 6, 7, 8, 9 or 10 years

BH I don't want to argue about the point. I agree with you it a small point. But I think it allows for certain flexibility. You might have a case an AG is eligible for retirement for only after 8 years and you'd want that flexibility. You would want to be able to be able to tailor it to fit the particular individual rather than have it bound by cast iron. I mean I'm not - I'm not

FJ Just gives you flexibility for that same point

KA It just bothers me that I think you will find in practise - I can't - I'm trying to remember back - there was a whole complicated discussion at Kempton Park. I mean again not a heated discussion. It was all to do a - a lot of that focus on a 5 to 10 was all to do with transition periods and what happens to the existing AG and all of that kind of thing. I can't remember the particular lines of thought. What does concern me is in practise I think you'll find a tendency for a committee to appoint somebody for only 5 years. That will be the natural tendency. And particularly as you're very often having to hammer out compromises when you're doing this kind of thing. Which means you can have an individual who serves for 5 years and even if everybody unanimously then wants that person for a further 5 years in terms of we will have a constitutional provision that will prevent it.

FJ But if he's completed his first 5 years and you want to keep him for another 3 years by wording it this way you've got that flexibility

KA Not as I read it. "the person shall be appointed for a period - a period of not less than 5 and not more than 10 years. So at the beginning you decide you appoint him for - and shall not be eligible for re-appointment. So once you've appointed them for 6 - that's my problem

FJ But I think what the thought behind it is the maximum that the man can act in that position is 10 years

KA Yes well 2 of 5. And I'm not wedded to 2 or 5. there may be wording it that achieves both things.

Legal

I think looking at the provision that we have here we must make a distinction between appointment and serving in that office. If you are appointed for a certain period, that is a period of appointment you are likely to serve for that period unless you are dismissed or you're resigning. If you are appointed for - that is in the alternative as in footnote 12 - "shall be appointed for a maximum period of 2 five year terms" that is in other words it is a fixed term of appointment, that is the term of appointment is actually 5 years, that is stated in the constitution and he can be appointed for another 5 year term, that is giving that person 10 years as per appointment. Now the other way round, is - there's a difference between serving and appointment that is being actually appointed as I understand what some people are saying. You can be appointed for 6 years, for 7 years. Now it depends on the intention, of - what is the intention of the people drafting this particular clause. But there is a difference between the 2 clauses

RD I think the problem that somebody's come up with is quite important. If you want to say that we want to appoint the guy for a 5 year term and then we may want to renew it for another 5 years, it actually says "it shall not be eligible for re-appointment". So the one appointment of 5 years would hold. You can only have one appointment as it stands. It doesn't provide for a re-appointment. So I think we need to - appointed for not less than 5 years and shall be eligible for re-appointment provided that the total term in office shall not exceed 10 years

KA Yes, Well you could say shall be appointed for a period of not less than 5 and not more than 10 years and shall not be eligible to serve in a post for longer than 10 years.

FJ Of course that's the point

KA Okay, well, I'm happy with what - the intention that you are

RD So as I said just now. So it will be "shall be appointed for not less than 5 years and shall be eligible for re-appointment provided that a person does not serve in a position longer than 10 years

FJ That's it

Legal

That would be exactly the same thing as the footnote 12 provision. The point is that if you are appointed for 6 years it doesn't mean that you can actually serve for 10. The formulation that you have here in the text

KA I think the difference surely that in terms of what the chair is suggesting compared with what is in the footnote, is that taking the point that Barbara raised, that if one had an individual who had 7 years to go to retirement one



may wish to appoint them for 7 years and then you're not entitled to re-appoint them because they - you can only appoint for a minimum of 5. On the other hand in many cases a person you may want to appoint for 5 and then re-appoint for a further 5. But as long as they don't serve more than 10 So I think the way the chair has suggested, it would achieve

RD That's agreed. Well actually I noticed in the previous clause there's one of the commas missing. It should be experience in audit, the comma state finances and public administration.

KA Well quite funny you say that because somebody, not me, handwritten has written in my copy - oh that's Pat - I see and everybody had it. That was obviously mollify me. Mine has actually got the comma in

FJ Mine's got one as well

RD Well okay we want to make sure that it is in the definitive text

FJ Only the opposition powers have got it

RD Is there anything in clause - in that section

KA Yes there are two things. One is 4.5, I'd like to add the words "by parliament" at the end of that sentence for clarification. In other words its under consideration by parliament. This is when the president may suspend - previously it actually said or the current interim constitution says when he's appearing before the joint committee or something, I think one has to say who its under consideration by. Otherwise I don't think its fittingly clear. And then I want to propose a new sub-clause 4.6 which was again something Rob, that all of us had in our submissions and was in fact in the block and was never picked up in the legal draft, and that is - and I'm now just quoting 191.6 I'm not sure if I've edited it any minor way or not but anyway, I'll read what I've got "remuneration and other conditions of service of the AG shall be as prescribed by or under law and such remuneration and other conditions of service shall not be altered to his or her detriment during his or her term of office" So its again the additional element of safe guarding independence. Now that is in the interim and in fact we all it in our submissions and I don't know how it got lost out of the legal drafting. But it lost out on the way

RD Comments on that - agreed. Okay so we'll put that in. Then the last block **Assignment of powers and functions and provisions of funds** Okay I think then we can say that we have gone through the 3rd draft. I think at this point we are going to since we obviously know that what's happening is that the things we suggest here are not necessarily picked up in the drafting process, I think nonetheless we need now to say that this report should now go to the CC together with this text. And I think that the

parties should go through the text that goes to the CC and should try to pick up anything further at that level otherwise I think we're going to get interminable process. I would propose that. I don't know if anybody disagrees or agrees

KA Yes What text are you talking about

RD I'm saying that what's going to happen is that the amendments which we have now noted will be hopefully I assume will be taken up by the law advisors and there will be draft 4. I'm suggesting that Draft 4 should be tabled at the CC. Now We have already noted that everything in Draft 3 everything we suggested was not taken up so it may be that there are things that we would want to take up. But I'm suggesting that we take up anything which is being left out and any problems in that regard should be taken up at the CC level. And there are two routes I would suggest. One is that the and I'll come back to that later on because I won't be here myself but who ever goes to the CC and presents the report from the committee could be contacted by the - by people here to point out things that were agreed by us and were not taken up in the text. Or secondly people can do it through their own party representatives who are on the CC.

KA I'm happy that the 4th draft doesn't come back here. But may I ask that we get what you might call a draft of the 4th draft and be given 48 hours to comment if we believe things that have been agreed here are not in. And then if necessary somebody can listen to a recording of this morning's meeting to see whether its a correct interpretation of. I think its much better if the 4th draft that goes in fact encompasses what we've agreed as opposed to - you know, then on the floor well, then on the floor you'd say this is actually not what was agreed at the committee and then it sounds as though there's that kind of problem

RD Well I think that - Well we could say that and if the drafters can get it ready by this week assuming by that the CC meeting this week, 48 hours before - by Wednesday then that will be acceptable for it to be tabled this week. If they can't get it ready by Wednesday 48 hours before the CC then it will be tabled the next week at the CC. So that there is at least 48 hours notice

KA No what I'm asking before it gets handed into the CC, we have 48 hours to respond if we're unhappy with the draft. So it doesn't go to the CC and we go and say at the CC we're unhappy with the 4th draft. I'd like the 4th draft to go to the CC and us all to say yes that we're all happy and that's what the committee has decided.

RD Okay then I think in that case we should say that it will not go to the CC this week, but next week. But that the 4th draft will be circulated among the members of the committee. the representative of the committee who goes to the CC will be the contact point in case there are any problems. People

can approach that person who can then liaise with the law advisors and try to get a draft to the CC that we all agree with. But otherwise I think we can record as I said last time a high level of agreement and consensus on the constitutional provisions for the AG. Okay now - yes

- Legal Can I suggest, I notice that most of the amendments suggested by Mr Ken Andrew - have you made any notes. Because if you've got comprehensive notes we can work on the draft immediately, we can produce a draft by this evening sometime
- RD I think that could be part of the process but I think you also need to listen to the tapes because other people made drafting proposals as well along the way. So I think you need to do both. Okay. Em now if that's agreed on the AG
- BH Ken - Rob just terms of the presentation to the CC, what does that entail. Just a formal submission saying here is the document, this records ...amongst the committee on the clauses or what is the process.
- RD More or less. It will not be the only item on the agenda. There will probably be several texts you go along there and you basically report that this is the submission that will go along with the document on the submissions and the points of agreements, etc, etc, you would give a verbal report and say that this is the text which has been through several meetings in the TC and we've come out with a high level of agreement about the text as its proposed. And then there will be some discussion and clarification. Maybe people on the CC would have different views. I'm sure that one of the questions which will come up, just to alert who ever goes to the CC, One of the question that will come back which we already have begun to bat around here is that it will be perceived by some people who are on the CC that there is more detail than is the norm in several other provisions and that the aim in the constitution is to cut the detail down - that I think we've already picked up. And I think it will then be necessary to motivate why the committee felt that for example the thing that Ken just proposed that we agreed to that there should be something about not reducing the remuneration of the AG. Why should that go in the constitution as opposed to a law. There will be a necessity to motivate for those sorts of things. But you know Because we've got unanimity here, in other words doesn't mean there's going to be no discussion at the CC but I think that's basically the way it will work. Okay. Can we now move on to the main item on our agenda which is the whole question of the debate on the RB. Now let me just clarify from the chair before I hand over to Cyrus Rustomjee who will be leading us on the discussion. What we are trying to do today and this was the mandate given to us from the CC is to explore the possibility of achieving

**RESERVE BANK**

- RD We have to explore the possibility of achieving a greater degree of consensus around the draft constitutional provisions including the various proposed amendments to the text on the RB. And I think that in order to do this is that we're going to have to do, all of us, is I think we're going to have to have the flexibility to explore new options other than those which we have already put on the table. It may well be that those of use who are sitting around here do not have mandates to bind our parties to any new considerations which may arise. In that case we may well find that we want to go back to our principles and suggest new ideas to them that arise in the discussions. But I hope that we can have a discussion which can be a fairly open and exploratory one and we can come to this discussion with as it were open minds and ready to think about new ideas and new approaches to these kinds of issues and that we're not locked into positions which we may or may not have stated on previous occasions. And I think with those words about the modus operandi, I will now hand over to Cyrus Rustomjee. Sorry, Francois
- FJ Mr Chairman I would just like to confirm as far as my party is concerned we have no mandate at all. We'll - I'd like to listen very carefully to what's being said this morning and I'd be able to take that back to our own people and we will discuss it then. May I also make the point at this time that there may be a possibility that we will call for further evidence in regard to certain things which may come up in our discussions
- RD No, I think Any of those possibilities in terms of the way forward are open to us. I already suggested that I think if we can explore issues which we may think we can take back new ideas or approaches to our parties. that's probably the most useful thing we can come up with today rather than simply repeat what we've already said in the past. What I'm hoping for is a kind of a new approach we can begin to have to this discussion. So as I said we agreed that Cyrus would lead us and we've quite a lot of documentation, so over to Cyrus.
- CR Thank you chairperson, I hope you can hear me. Three short things before I start. This morning
- KA Don't you want to put on the microphone there
- CR Is that any better. Em over the weekend I was in Pretoria and I understand some faxes came to me in Pretoria which had been sent down to me here in Cape Town now. I'm awaiting photocopying and I hope to be able to distribute that. I must apologies for distributing them in so ... a fashion but I received them over the weekend. I'm waiting for the copies. There are 3 things I'm trying to distribute when they do arrive. One is a comment on the CB which was sent by somebody in their individual capacity. I'm not quite sure why they sent it to me. But it was received. A second was a comment from the CA law advisor on the suggested reformulation of one of the

clauses in the CA law advisor's opinion. And the 3rd is just some copies of dictionary definitions of certain terms as I hope to explain in a little while. I don't feel that these maybe of immense value. But they may contribute to a better understanding but I don't think they are absolutely essential. Okay. I hope that's in focus. I thought I'd start off - I wanted to raise a number of issues today. Essentially I was asked to provide a presentation with a very wide range of issues on the 22nd May. I tried to structure this presentation which tries to address most of those issues. As - by way of a preamble the impression I've had that there's generally been broad consensus on the clauses regarding the CB, there'd been some recent proposed changes. Some of the things requiring discussion have been issues pertaining to the independence status of CBs, issues pertaining to consultation and concurrence because this had been an issue that we've been discussing. Dispute resolution mechanisms in instances where there is a fundamental dispute between the CB and the ministry of finance. Queries regarding definitions, goals, objectives, instruments, functions, things of this kind and a range of other subsidiary things which I drew out from the transcripts of the meeting on the 22nd May. I hope you've all received the documentation fairly, thick substantial documentation was circulated. Those articles represented major key articles provided at the conference on CB independence hosted by the RB earlier this year. I think they are a very, very valuable collection of articles because I think they represent pretty much the cutting edge of thinking about central banks, modern central banks and certainly some of the authors are very, very leading internationally contributory to this debate. I'd like to draw on some of these texts as I go through this presentation today. Since the last meeting I've spoken to the CA law advisor as required of me at the 22nd of May meeting and I've also spoken to the governor, held meetings I should say with the governor of the RB and minister of finance on the proposed draft texts and I received their comments on specific areas of this. I wanted to provide a sort of .. sketch of the main gist of some of the issues which the committee is dealing with which is contained in the documentation that I've circulated. After that I want to give a brief report back on the meeting I held with the governor and the minister and thereafter I wanted to deal with the key issues raised by the committee. As I say these included central banking, independence an issue which arises out of the body of the text but which we haven't emphasised but which really is a strong strand to consider in this debate - the issue of accountability, dispute resolution mechanisms, definition issues and a few short recommendations as a suggested way forward.

Reading through the literature and I'm referring now to .. Fisher, Guitian who is the IMF contributory to that package. There seems to be a sort of a strand of - common strand of thinking about the way central bank independence has evolved. They're typically originated from the passage of ordinary statutes hence for example the RB was created by an act of parliament. Authority for performing certain responsibilities was then vested by parliament in terms of relevant acts in central banks in the relevant central

banks. Essential to this and this come out very, very clearly in the paper by Guitian in the IMF contributory in that package, is the notion that authority is delegated by elected representatives to central banks in some manner or other. And they're delegated to a competent central bank. Delegation can be direct in the case of an act or an ordinary law which sets out the responsibility in the central bank. It can be indirect .. constitution where constitution of independence is being ... In any event constitutions are established by - can be amended by elected representatives - sorry. There are many references in the literature to the notion that no central bank can ever be completely independent. And reading through the pack of literature it is quite clear that this notion is fundamentally derived from the notion that authority of central banks is in some way delegated.

Now flowing from the notion of delegated authority is the notion of accountability, where in what form and how do we grapple with the notion that a central bank can be independent and yet accountable. This is where some of these - misunderstandings perhaps - instances where the authority of a central bank derives from an act, central bank is regarded to be accountable to parliament, usually through the minister of finance. And in the case for example of our RB act, section 31 of the act makes this accountability provision quite clear through the minister of finance. In instances where authority derives from a constitution its usually said but not always but its usually said that the CB is accountable to parliament and to society at large. Also flowing from this notion of delegated authority, is a question of how autonomous or independent the CB is in carrying out its mandate or its delegated authority. There are in fact many dimensions of CB independence. I want to touch on a number of these a little bit later. And its in this particular area that much of the debate and the confusion tends to arise about independence of CBs. I should apologise for any typing errors in this. Just following through the gist of the literature, previously CBs were held responsible for a large range of macroeconomic issues. And for example one of the .. annual reports a SARB perhaps 10 years ago, the objectives of the RB are to obtain full employment, maintain price stability, have stable external value of the currency and a whole range, quite a long list - all of a sudden one sees the focus changing. Developments in macroeconomics and in financial markets have challenged the rationale for vesting a spectrum of responsibilities with the CB. In this literature which has been distributed, these developments are so sensitive - increased understanding of the capacity of policy makers to influence both the employment or unemployment and inflation. Now - and inter and influencing these two macroeconomic policies variables, are policy instruments which mostly effectively address each of these macro policies variable. According to the Phillips .. which is an old established but somehow contested in our - pretty much discarded approach, a trade off existed between the level of unemployment and the level of inflation. Accordingly when this relationship was deemed to be held which was in the 50s and 60s and the 70s in fact, governments were thought able to be able to choose among the range of

policy options as to what level of unemployment and what level of inflation government wanted. Effectively what this meant was that governments could choose through this policy choice a specific point ... curve on unemployment and inflation. And it could utilise a range of instruments at his disposal to achieve this trade off.

For the purpose of our discussion, I didn't want to get into the technique of ... on the macroeconomic policy but for the purpose of our discussion, the issue of the trade off, the Philip curve trade off and the - I'm actually missing a slide. Perhaps I need to explain. the Philip curve relationship was challenged in the literature, in the macroeconomic literature and it was felt that in the medium and long term the relationship between inflation and unemployment didn't actually hold. Rational expectations and developments in financial markets meant that for any particular level of unemployment, inflation tended not to hold a stable relationship. Now understanding that, the purpose for our discussion is that it meant that CBs were now viewed as being able to pursue specific objectives for ... focus towards inflation. But there was no longer this trade off that if they pursued inflation there would necessarily be a high rate of unemployment. Consequently you see a trend in the literature of CBs starting to become independent or autonomous

## CASSETTE TWO

CR Specific variable instrument, let's say a set of policy instruments which would achieve price stability, i.e. focusing on inflation, anti inflation. In this ... it became increasingly feasible to delegate the responsibility for monetary policy to autonomous CB. To introduce into a law clearly defined the divisions to ensure that CBs were accountable ... their responsibilities. You can see this coming through in many, many changes in CB legislation and the constitution provisions for this. Consequently in recent years there's been an international shift towards more independent CBs typically delegated close - while typically delegated closely focus mandates which is maintaining price stability. The wording can change and you may see later as we get to the end of this presentation price stability is usually the common term used in our ... the words internal and external value of the currency. Now Goodhart was the first article in the package. He explains this issues. I'm focusing on this because I feel that its very important from the way that the thrust of CB independence has come from. There are many motivations but one central one is the macroeconomic advance in macroeconomic theories. Perhaps you can just flip through a study quickly because there's not - what Goodhart is saying when exploitable trade off was perceived between inflation and .. along the Philips curve the choice of the optimal point was inherently and lightly a political decision. When monetary policy ends at several objectives simultaneously as it previously did with the need for choice and balance between them, policy will be subject to greater political oversight and a CB will be subservient. The greater autonomy is more likely

when CBs are asked to achieve a single macro outcome such as the maintenance of the gold standard until 1940 and your price stability at present.

Okay he then goes through the rationale of this and perhaps we can make a copy of this but really I'm trying to that the macroeconomic foundation for the move towards more greater central banking. The important issue raised at the bottom of this and I want to touch on it later. For those who accept the analysis of the .. Philips curve relationship, a shift to central bank independence in circumstances where there's a single quantifiable objective which the CB is related to its price stability makes the CB a much more rather than less democratically - makes it much more accountable. The reason being .. if you grasp this ... having elected body and I've conferred this mandate in legislation on the constitution of truly independence or to perform the independent - key macroeconomic functions. Associated with the confirming of this mandate is an imperative of accountability and ... that level.

Two points arising from this whole analysis, Goodhart's approach.. longer term trade off is now considered possible along the Philips curve. Now the conference in January heard that even in fact in the short term there was a debate as to whether there was any ... trade off between inflation and unemployment. And that even a short term .. to the economy through relaxation of monetary it may or may not necessarily lead to reduction in - even in the short term. There was quite a healthy debate about that. And its in the literature that was circulated previously on the conference. Monetary policy aims have reduced from a broad series of choices to predominantly price stability. There's been a major stimulus internationally towards greater central banking in the economy. Because previously there was a choice, the decision as to the mix of policies was much more squarely and political decision. Politicians subsequently felt that whilst this was a political decision, they felt somewhat more relaxed about referring this to an autonomous body subsequently. Okay. When an independent CB is given the mandate to a single quantifiable objective it can and should be held directly and more easily accountable for the ... I keep on referring to this because I want to deal with the issue of accountability.

I want to now to report back from the meetings with the minister of finance and the governor. Comments by the minister. The minister favours the retention of the wording of the interim constitution. He's examined the clauses and is quite comfortable with those clauses. He feels that that its strikes an appropriate balance in the relationship of the two - CB and government. He also feels that any substantive changes may be have accentuated impact on confidence and expectations and might imply a change of mindset. The effectiveness of the CB and its contribution to its overall policy is ultimately a function of the working relationship. The point is perhaps there was - one can codify in wording the relationship with



fundamental to this is actually how it actually was in practise rather than ... Not that we're belittling the provisions themselves. He's really saying that for the actual of the conduct of this relationship its very important to understand there must be a working relationship. If detailed wording is pertaining to consultation between the governor and the minister of finance, if this is to be used and is not allocating ... if .. then he would strongly prefer the words after "after consultation with" the minister of finance rather than a stronger version of "any consultation" with.

Continuing with regard to the meeting with the minister. Regarding the balance of powers between bank and the government, the minister feels that there are suitable tracts on the bank including ... report to parliament annual in regular consultation. It is contained in this subsidiary legislation. And he's satisfied with these particular provisions. As a comparatively minor issue he raised the issue that - he expressed the preference for the primary objective of the bank being - to protect the value of the currency rather than to protect internal and external value of the currency. He didn't go into great detail about that because there is again in the literature, a detailed discussion and debate the extent to which authority should conduct exchange rate policy. And I think he's moving to that in his comment.

Then there was the meeting with the governor of the RB. Again the governor favours the retention of the wording of the interim constitution as far as possible. He concurs with the view of the minister of finance that any substantive changes now would have accentuated impact on the confidence and its expectations and would imply a change ... The proposal that maybe concurrence between the minister and the governor and his interpretation of in consultation with that it would be concurrence and he's probably ... He felt was unworkable and he didn't agree with the particular approach. Like I say the did stress the need for consultation. When he moved on to the accountability of the CB he emphasised that the bank is accountable to parliament because its from parliament that the bank receives its mandate. that the bank was very - by parliament. The subsidiary legislation he pointed out makes provision for the bank to discharge its responsibility to account to parliament in terms of section 31 of the act. I want to come to that in just a second. This section requires the governor to submit to the minister of finance a report relating to the implementation by ... monetary policy. Now what I wanted to raise here was I think its something that perhaps we've not paid a great deal of attention to in discussing the provisions of the constitution. But there is a very, very significant set of papers which is a subsidiary legislation of RB acts. And I think it will be quite useful if this debate is to continue. I think its a very healthy debate. That copies of the RB act actually be circulated because it contains very important provisions about the powers and functions for the CB, the primary objectives elaborating in greater detail some of the issues we're considering here, the accountability clauses of the CB, the appointment clauses and so on. And I think its not that constitution should be framed in any way in isolation of what the

existing body of subsidiary legislation. And we should be looking at this at the same time that we're considering the formulation of these clauses.

I also had a discussion with the CA law advisor as I was required to by the 22nd of May meeting. And I was specifically asked to see whether the CA law advisor would have any alternate wording for a particular clause on page 13 of his opinion. I spoke to him. This is precisely the facts that they are alluding to which was received in Pretoria and is down in my office any time I'm waiting for photocopies to come. Its a half page fax, its a fairly short fax. I think that's the same - I chatted to the chairperson to that this morning. Alternate formulations have been prepared. Perhaps if you want me to I can read them.

I wanted now to touch on - I'm just going to go back very slightly - I was looking for this in quite a panic about 15 minutes ago and I've now finally found it which was the list of the things I wanted to clarify in this presentation. One is the background and summary of issues raised which I think I tried to illustrate by going through the gist of the literature and so on. One is a report back on the meetings, a 3rd one is the issue of independence. Fourth is the issue of concurrency, consultation, 5 conflict resolution mechanisms, 6 definitions, 7 highlighting areas where very, very strong .. that there's consensus is and that I feel that its partly because of the very difficult nature of the terminology being used in the literature that it may appear that there isn't - my own view judging from comments is that there's quite considerable consensus. And just a few recommendations that which you might want to just want to yourself consider.

Okay we are now on Item 3 which is the issues independence, CB independence. Now I'm trying to stress in the preamble part the notion of delegated authority and the other - the key literature here is the Goodhart's articles, two of them and the article by Guitian. And the other side of the coin of delegation of authority being accountability, necessity to account for this authority. The question is to whom, to parliament, to society. I wanted to touch on what the current accountability for .. RB - em to raise the question as to - because we are now shifting into a realm greater independence for a CB. Is the committee considering and in what form is it considering whether the accountability section is either in an interim - in the final constitution or in the subsidiary legislation and I would prefer the latter - whether these are being considered for revision, whether they will stay the same and so on.

I wanted to then touch on goal vs instrumental independence which we have quite a discussion about last week and another dimension that say independence which is model A and model B independence. Not to induce confusion but to try and clarify the lines as to the various different dimensions of independence. Okay.

The issue of delegated authority and accountability. Quoted now out of the Guitian paper where he says no CB or any other monetary institution for that matter is ever completely independent of government and politics. They are in their modern form at least creatures of the political and legislative process and are given through that process very recent delegated authorities ... On the stage .. I think the authority can be ruled or changed to the same process even if its more easily done in some cases than others. It can also be seen on a more day to day level that independence is never absolute, at least there are invariably a variety of formal and informal avenues through which governments and the political process impinge on and can potentially influence decisions and actions of the CB. Further perspective of delegated authority it is natural to assume that the greater the degree of the CB independence, the stronger and clearer should be their accountability for their exercise of this whole authority. It is certainly true that the political acceptance of CB independence is unlikely to be forthcoming reasonably strong accountability provisions. The point I'm trying to raise really and emphasise in fact, when we enter the stage of confusion in the committee about whether the bank is accountable and to whom and whether its independent and autonomous and so on, associated with the notion of independence is also the notion of accountability. Its the other side of the coin in this instance. Parallel Accountability should not be seen as the unfortunate cost to the CB of obtaining more independence, the cost to be minimised as possible. On the contrary its necessary and inevitable obverse of that independence. Indeed without it and this is Guitian's particular view, there would be little economic justification for independence, the whole point of independence is to pour confidence and certainty in monetary policy to predictability and transparency in this conducted ... For this the CB has explained publicly what its doing and why. Therefore accountability arrangements formal or informal are central to the ability of public and financial markets to gauge what is happening in monetary policy, what trade offs are being made, who is making it.

Now with regard to accountability at present, I've touched on this. There are some sections in the subsidiary legislation, Section 31 where the governor annually submits to minister a report relating to the implementation where the bank of monetary policy, Section 2 which overrides the requirement the bank must furnish quite a considerably body of information through the department of finance to the department of finance and to parliament. Note that minister of finance tables the report .. in section 31. Note also this is something that the governor stress that accountability is not .. but its to parliament the idea being that its not to a specific political party or to political consideration, party political consideration or to parliament as a whole.

The question then arises, what about accountability ... CB ... note that the CB will continue to be accountable to elected representatives, it has been given delegated authority as we said and in common with independent CBs

more generally it will be accountable to society at large. The formal accountability one needs to discuss. According to CB experts such as Goodhart, Fisher, Guitian etc the political decision for its independence will in fact strengthen determination to ensure this accountability is in place. What we question is, what a form of this accountability should take. Its something that actually hasn't been discussed but I think the .. is quite strongly in the text of the literature. It may well be that the provision don't necessarily .. legislation. ... But its something well worth considering in the discussions here. Some specific things I've tried to think through. Will accountability be written into the constitution or in subsidiary legislation. If the latter which is the norm and I think its probably the preferred approach, what form will it take. Is it - and there are many forms of accountability in the - in the literature. Is it monetary targets, its it accountability of the form that we have at present. Note the pull, the move to greater CB independence if you recall was prompted in theory at least by more precisely defining objectives of the central banking in price stability. It may well be that because that objective would be more precisely defined, that the accountability provisions in themselves can be more refined, more personally defined. ... inviting the governor and minister finance to comment on these future accountability requirements. It may well be in fact that you choose from the literature and this presentation and deliberations that we find ... to do that. You may want to specifically question among these particular issues.

Comparison of accountability provisions in em among other CBs - now I wanted to refer you to some of the literature which has taken ages to decide on - provision for accountability you can quite easily find in comparative schedule, prepared by the RB which has been circulated in the documentation. And also what I thought was a very, very good article which I think recommended be circulated previously as well which was the IMF's tabulation of various categories of people and CBs. I should say that those two documents actually contain a vast amount of information and I think is very, very valuable for the committee. Okay then to another issues. Goals vs instrument independence.

Now this of case presumably a degree of confusion. Perhaps if I wanted to try to allay any confusion, I would want to say that when one talks of CB independence there are many dimensions to independence. And true to analytical reasoning one needs to really take an issue, examine what the context of the discussion about independence is in that regard and then move onto another analytical issue. In this case goal instrument independence it ... by Stanley Fisher a very, very real ... And I quote now in fact from the article I think page 42 of Fisher's article. It is determined that independence is not precise - some prefer to describe a CB as autonomous or somewhat apart from government. Rather than fight the inevitable, I shall continue to use the term independence and draw a distinction between goal independence and instrument independence. The

CB its goals are imprecisely defined as goal independence. The goals are precisely defined and there ... As an extreme one can imagine the .. CB is a power to conduct monetary policy. And giving it the goal of doing good. Very, very broadly defined goal. At the other extreme the goal may be precisely defined as for example in New Zealand where there is no goal independence. The CB with a .. for price stability but not numerical target has as more goal independence. The CB - now I'm moving to the other side - the issue of instrument independence. The CB has instrument independence when it has full discretion and power to deploy monetary policy to defend its goal. A CB bound by monetary rule would not have instrument independence nor would a CB which is required to finance the budget deficit. That's from Fisher. And as I say its on page 49 or 42 of his discussion. And its Fisher's way which has been adopted by others as fairly neat way of trying differentiate between one particular dimension of the issue of CB independence. To add to these dimensions which quite possibly has confused the committee, Goodhart raises a different form of categorisation let's say of independence. He talks of independence of objectives and this is where we spent 20 minutes at the last meeting trying to discern the objective instruments and goals. Note in particular the CB is not independent with respect to objectives that it should fulfil. Indeed it may often as in the Case of New Zealand be tied down rather rigidly to the .. of a defined outcome. In that sense the CB is autonomous with respect to the powers used to achieve its statutory defined objective but its not independent to choose its objective. Goodhart is approaching the same thing using his own terminology for the study. What is central of an autonomous CB can be more democratically accountable than a subservient CB. And Goodhart goes on to explain what he means there by saying if one has precisely defined goal of the CB there is a greater opportunity for introducing provisions with regard to accountability. Because it is quite clear as ... vested with the responsibility of achieving a whole series of roles its quite clear and modern CBs that price stability or some refinement of that very much primary objective is the objective of the CB and one can then pin the accountability to the achieving just that.

Comments on this goal vs instrument independence. .. who have been so left it at that and just say its an interesting way describing this aspect of independence but I thought I should bring comments as it did take up a lot of the committee's time. The proposed goal with regard to our final constitution - the proposed goal of using an interim constitution as a base for discussion about this issue, its a fairly clearly defined goal which is protecting the internal and external of the rand. In Fisher's terminology the independent central RB - the future SARB will not have unfettered goal independence because its not a - its goal is fairly precisely defined. Its not exactly defined. And its not quantified. Its not a quantifiable goal, for example such as New Zealand goal. However it may have some goal independence because the constitution doesn't set numerical targets as it does in New Zealand's case for achieving a mandate of protecting internal

and external value or the rand. So its somewhere between having goal independence and not having goal independence. Now as regards instrument independence, there's not like will have reading the interim constitution, it would have instrument independence because the constitution grants the banks full discretion and party to deploy monetary policy to attain its goal, which is protecting its external and internal value of the rand. Now one could interpret that as well. Because its not clear whether there is that full discretion or whether that discretion is some way checked. And its a matter again of interpretation of the specific clauses. But this is the kind of distinction that Fisher's coming rather and I hope that allays some of the confusion of that particular issue.

My own opinion on this issue of goal and instrument independence is it useful? I think its useful in highlighting the fact that the term independence and independence is not precise. It causes a lot of confusion in the literature. And independence can lead to various aspects of a relationship. And I think this is one quite useful way of looking at that relationship. As the terminology it is specifically to be used as words in the final constitution, I don't think its valuable. I'm not clear that anybody is actually suggesting that but I just wanted to make it clear that my own views that is should it go into the final constitution, I don't think it will be useful for the reasons I've given to you. So my recommendations so that we can move on on this issue is that the terminology should be acknowledged as a useful contribution to understanding on dimension of independence but its not considered for use as wording in the final constitution.

Okay moving on the issue of "in consultation with" and "after consultation with" and so on. I think one point I would like to make right at the beginning is that in view of the CA law advisor's .. "in consultation with" being "in concurrence with" from my side I think I agree with that but I think that the meaning of "in consultation with" means "in concurrence with" and would be interpreted that way. My first comment is that there's quite literally probably in the literature is the recognition of the need for this consultation. What's the fundamental reason. One goes back to elementary issues pertaining to CBs that the interest rate is a central variable influencing monetary policy and fiscal policy and impacts on the real economy. That's really the hub of an economic level as to why ... for this in consultation. Consultation would require concurrence. It needs that. My view on a way forward on this matter is that its a question of formulating provisions either in the constitution or in the subsidiary legislation which ensure that there's regular consultation takes place and that the necessary tension and interference and this is - what I'm trying to say, in a notion of an autonomous institution assuming responsibility for .. and a lack of policy is incorporated in a workable manner. This goes back to the comment that the minister of finance made that its the working relationship in a sense. I should just end off there by saying which ensures that the autonomous body of ... within the mandate given to it. Now my view here is that there is clearly a

need for consultation. there's clearly a need to my mind for that consultation not to be of a nature which through wording excludes the independence of functioning the central bank. It is also clearly a need for wording which ensures that the CB isn't capable of pursuing at a polar tangent monetary policy completely - in the direction completely opposite to the gist of other macro policy to government. The question is and its a necessary tension and if there were a symbol connected to this we would find all CBs utilising the same wording, adopting the same procedure because there isn't. We have such a variety of central banks and .. of central banks wording for this process for encapsulating this process. The question is to find the appropriate wording. Again I have my own particular view and it would seem as if the wording mentioned in the constitution did seek to encapsulate this necessary tension as one may call it. One will also see in the literature incidentally is view about necessary tension of CBs in relation to the government. you will see in Fisher's paper, he actually talks of the undemocratic nature of CBs because they are mandated the very sort of key element of macro policy. And what .. into the academy is the tension of this relation that includes the necessary tension.

Moving to conflict resolution mechanisms. the key sources in discussing this issue of conflict resolution mechanism is I think in Guitian's paper. Paper by him. The - I wanted to just quickly look at provisions in the interim constitution and the current South African legislation with regard to this. Also to look at international comparative provisions and finally comments about the final constitution and or subsidiary legislation. Guitian distinguishes a different type of dimension to independence. Again not to confuse the issue of independence, segment issues pertaining to independence. The distinctions between Model A and model B. And model A he says that there is no formal government directive or override mechanism on monetary policy. He cites some examples. .. that the .. CBs. But model B - this override mechanism where conflict is resolved finally government having a say in the activity. He cites for example New Zealand, Australia, Botswana, Canada and Netherlands. The issue that underlies the choice between the two approaches on conflict resolution, is the question of what happens in practise. And perhaps behind the scenes in the case of conflict of direction of .. monetary policy in the time. What happens in practise under either basic model depends important on .. on how the details of the law, traditions, conventions, attitudes affect the .. of politicians and central bankers behind the scenes. What Guitian is saying there is on the one hand provides text for this either in the constitution or in subsidiary legislation but a lot of the reality of this resolution of conflict will lie out side the domain of the precise wording itself. He also stresses incidentally that these are polar models. That they're just used to explain two polar dimensions of this issue. He cites again and excuse the typing error, he cites in favour of the use of conflict resolution mechanisms distinctly through this statutes of .. mechanism which may help avoid confrontation without comprising the monetary policy objectives. That it gives the governor grounds to resist

political pressure because the governor can say he has an independent mandate and the government on its side as a public formal channel to change the ... it wants. The presence of the conflict resolution mechanism. And Guitian also says that without the override mechanism the governor will be forced either to capitulate the pressure behind the scenes and not ... or to engage in a public confrontation which might lead to either the governor or the minister of finance .. So its sort of a safety valve which avoids one getting into the point of resignation to the this sort of final confrontation. Arguments against this well, notwithstanding any constraints the existence of this government override, it may weaken monetary policy dependence and foreign confidence. Because the constraints will not be or not be seen to be sufficiently effective to restrain politicians. In other words, what he's saying, the political cost of using this mechanism may not be enough to actually prevent politicians from using it. Much will depend - another point, is that much will depend on how other aspects of the legislation affect the balance behind the scene including for example whether the law establishes clear objectives, accountabilities goes back to the point that I was raising earlier of defining the accountability of the CB in either the constitutional provisions or in the subsidiary legislation. In clear - in defining those accountabilities that we're dealing with are slightly an independent institution. But we will depend on these factors including whether the law establishes clear objectives and accountabilities, prohibits the CB from taking or seeking instruction from the government rather than parties. Depends on whether those kinds of things are included either in law or in practise. The key issues arising from this distinction that de jure overriding mechanisms may be there but what about the de facto of those of the environments. Bank can have model A independence but there are no override mechanisms. But in practise it may closely .. by political pressure. On the other hand it may not Model B independence where in fact there is an overriding mechanism but the fact that the mechanisms isn't used, isn't saying anything about what's going on behind the scenes. The importance of the extent of public support for central bank independence he says that this is a particularly important environmental factor in those words in deciding what kind of model of independence one might want. The importance of the extent to which the subsidiary legislation establishes clear objectives and accountabilities and the importance of the political constitutional tradition particularly checks and balances on the political leaders. All these will go into determining what major conflict resolution mechanism if any one wants to write a kind of subsidiary legislation or the constitution.

Okay as regards the presence in the interim constitution of subsidiary legislation, they usually contained in subsidiary legislation. In the South African, interim constitution and in subsidiary legislation one actually don't find explicit conflict resolution mechanisms. In practise and as a last resort if there were to be a fundamental conflict of opinion between the governor and the minister general public consideration means rightly that the governor would resign if they couldn't come to some kind of agreement. But its not



written any where. It just seems to be understood publicly.

Some final issues and I'm not sparing this suggesting that these issues need to be highlighted. Should expressive conflict resolution mechanisms be incorporated in the final constitution, or to build the .. internationally in subsidiary legislation. If so, what mechanisms. Its something that might have been said. I should say again that in the paper specifically in the South African Reserve Bank tabulating the various considerations by the central banking they got a very, very good section on conflict resolution all on different banks. Well to my mind and something the committee must discuss there is this case based on the reconciliations Guitian's ... about the .. would follow a model B type of approach in South Africa where there are conflict resolution mechanisms specified. Whether these will be valuable or not depends on the facts ... not necessarily the conflict resolution mechanisms .. something Guitian strongly stresses. Most appropriate case if I one conforms of international procedure in this is likely to be in subsidiary legislation.

On the issues of definitions and terminology. We've examined .. independence and we've noted this issue of independence of objectives in Goodhart. And its really approaching the issue of independence in their own analytical fashions. It also examines the two models of independence, model A and model B. So one can say there are so many different views of what independence is. Just a question of actually taking the issue, analyzing it, extracting what's beneficial in terms of improving understanding. Its no a .. as such. In the case law on the RB since its inception, my reading of the thick documentation of statutes of government since their inception on the banking statutory, they have decided cases at the bank of those books, there'd been no decided cases that has challenged the word objective. We have a lot of discussion last week about what are objectives and what are instruments. And one way of knowing about .. and get some clarity on this is the - is whether there'd been cases actually challenging the use of this word in case law. There hasn't been any challenge to this. Nor any challenge to the notion of what the primary or other objectives of the RB are. Similarly in the definitions sections of the original act and all amended versions of the RB act, there doesn't appear to be any definition of goals, functions, instruments, or objectives. Now in a case where a statute doesn't precisely define one has to turn to normal procedure and .. statutes which is to take ordinary common law .. viewing of the word. And one .. to dictionaries. I'm hoping that something will arrive shortly which I've photocopied with some dictionary meanings. My own view is that in fact this is a useful exercise but its not utterly essential to the work of the committee. I think one has to take the ordinary meaning, definition of these words. I think the literature, internationally is extremely indiscriminate let's say in the use of these words without trying to precisely determine what they mean. In .... and I think it is something that one would probably end up having to live with and trying to sift through conceptually what the issues are. Perhaps using exact precise

words in the constitution it might be more relevant to know exactly what the definitions are. But I sense that as time goes on there will be no clear precise definitions internationally .. objectives, functions, goals are end up specifically being. I acknowledge and conceive in management literature there's much more pretention to whether goals are elevated above or below what the relationship of these things appears. But in the literature there are in central banking internationally they tend to be used not quite interchangeably but without precise definition. I'm hoping to circulate some definitions of these words and in the case of Thomson's dictionary of banking there are definitions of the words instruments from a financial perspective.

Just trying to get back to key areas of current consensus as I view it at this stage. It seems to me that all parties ... be above party political ... independence. It seems to me as a result of that all parties have decided to enshrine the CB independence in the constitution. Now we've also seen independence means an awful lot of things depending on what kind of analytical category one wants to extract and discuss. My view is that reading section 196.1 of the constitution, all parties would be conferred the relatively precisely defined mandate on the preserving the internal external value of the rand. This would be moving in the direction of internationally - of marrying the precise mandate of CBs and moving away from the generalised format of decades gone by. If Section 192 is retained all parties would prefer independence on the central banks of the .. mandate. Loosely termed, if one wants to use Fisher's terminology and I'm not suggesting one does. But if one wants to understand it in that context, this would effectively between flowing the form of instrument independence on the bank.

Finally, it seems to me that all parties appear to want to ensure that the bank is accountable to parliament and to society at large. There are - there is a desire to ensure that the accountability is there. In fact it seems to me it would be a matter for subsidiary legislation. My recommendations and I hope

### **CASSETTE 3**

CR I hope its not viewed as a .. but its just a - some suggestions. That the TC might consider reversing its process possibly to the wording of the interim constitution, particularly for .. as 196.1 and 2. Given the various .. tensions in the relationship as a necessary - well acknowledge tension internationally between governments and central banks it seems to me that particular formulation of that wording relatively accurately reflects this tension which ... a matter of policy to an autonomous body .. and a central bank. Incidentally to be given to withdrawing the suggestion that the banks should act in consultation with but rather detailed consideration be given to determining what the mechanisms for such consultation should be. My view

is that there is consensus here that there must be this consultation. I think to put a very specific type of wording in tends to move it in a specific direction whereas I think that the objective is to ensure that are no longer polar approach is taken without consultation. Em but .. constitutional independence on the bank .. be given by to committee to the necessary accountability clauses either in the constitution or preferably in subsidiary legislation. Particularly accentuated by the preferable of a - on the bank of a relatively precisely defined mandate as has been suggested. And finally if it can be managed that the clauses be kept as simple as possible.

RD Okay well I think first of all let's thank Cyrus. I think he's done a very thorough job and I think on behalf of the committee we should thank him for the hard work which he's done. I also think we should ask him if we can have his slides copied so that we can all get copies of them. I don't want to try to guide the discussion too much and I would like to allow people to raise a number of things which Cyrus has raised. But I think that quite a lot of it is in the nature of the kind of background discussion. I don't know that we want to go through it in detail discussions of the literature and so on. I mean

It seems to me if I can just try to sum up - that I think that since we are trying to search for a consensus, or at least we're trying to search for what we can report back to our principles is likely to be the basis of our consensus. I think that Cyrus has put forward a strong argument that that will be found around the provisions of the interim constitution and I think we probably have already agreed that ourselves. We have a number of added items of dispute I think which have arisen in terms of some departure from that framework. So I think that's probably the first thing we need to talk about. I think we do need to take on board a few other issues that we have not really debated much in the committee. First of all I think there's the point that is raised by the minister - ... Cyrus here the internal and external value of the currency, whether we should be dropping that in favour of just the value of the currency. I think that's the first thing.

Secondly I think if we are going to find that the consensus is roughly around the provisions of the interim constitution, we're going to have to ask ourselves whether this redraft which we have from the law advisor - the main text of it, whether this accurately reflects the balance that as Cyrus put it, that was arrived at in the interim constitution or whether there is some significant departure. I mean what has happened here is that the law advisor has attempted to put it in more simple language etc, etc. But I think we need to go through this very carefully and see whether there are significant variations from delicate balance that Cyrus talked about. And in particular, I'd like to highlight one particular clause there which actually did come up in the CC which I think we need to take on board in our debate and that is Clause 1.2 which says that "the SARB shall be independent, impartial and subject only to the constitution and the law". No such clause appeared in the interim constitution. The law advisor said that he had put this in because

of the constitutional principle. there was some dispute at the level of the CC as to whether you need to include the wording of the principle or whether the essence of the principle can be accommodated by the substantive provisions. And I think that in view of what Cyrus has said about independence and I think also in view perhaps of what we understand by the word "impartial" I think maybe we should revisit that clause again.

Then I think we are into the substantive issue which is that of the consultation or dispute resolution mechanism. Now I think Cyrus has expressed a view that I think if I understand him that this should be covered preferably by subordinate legislation. And I wonder whether we can discuss that because I think probably many of us would agree that the details of this should be dealt in subordinate legislation. Now if we reach a fairly rapid agreement on that, then I don't think we need to be discussing and debating detailed clauses in the constitution about that. However I think that what is probably very relevant and very important here, is that we need to understand that the clause in the constitution should not necessarily dictate any particular model there outside the kind of framework that we're prepared to agree on. And in that respect I would like to ask a question of the law advisor: If we have been presented with an argument and substantive argument which as I say came out at our policy conference, we're going to have to take it back to our principles and suggest this is the direction of the discussion in the committee and these are matters for you to consider. Its not - we do not have a mandate from the ANC side to reverse the position of our policy conference but we can take it back for further consideration at an appropriate level. If the "in consultation" with provisions are ruled to be or deemed to unacceptable, and that the law advisors suggest a way of accommodating this by way of some sort of a version of binding consultation on the "goal independence" if that is also deemed to be unacceptable and a matter of dispute, if a clause of this sort which is down here "that there shall be regular consultation" which does not bind or does not say what the consultation process should be, would it be deemed to be in law, would it be deemed to be the weakest form of consultation or would it be susceptible to a possible variety of consultation dispute/resolution procedures to find in subordinate legislation? I think if we can get some help on that, that would be an enormous step forward. If the phrase like "there shall be regular consultation" if that would be interpreted as if it is not "in consultation" with the strongest form of binding consultation, will it necessarily have to be the opposite - the weakest form of - and probably I can tell you that I've done this and bugged anything you may say kind of consultation. If it does not necessarily mean that then it means that the subordinate legislation could define a range of mechanisms then that might also be something that we can consider. I thought those points might be relevant to our discussions - to put those points on the table. I think that as I say I don't want to bind anybody to asking all kinds of questions about Fisher and Guitian and New Zealand and things like that - I don't want to preclude that but I think that our mandate is really to see and report back to

our principles on where the direction of a consensus may lie. Just before I hand over, I just want to - there's one thing that Cyrus didn't do so I think I should just do that. The Grove, Mr Grove came out with some alternative formulations for that disputed clause in relation to the consultation process. I think maybe - instead of reading them out, maybe I can just pass them around as we talk. Maybe that might be a way of dealing with it if people agree to that. Unless you want me to read them out.

FJ Yes and I'd like a copy of that

RD I think we'll get copies later but I'm just wondering for now in case anybody wants to - shall I read them out

PW Could you read that.

RD Okay, he's suggesting 3 alternative formulations alright. The first one is the bank shall discharge its powers and functions with due regard to monetary policy objectives determined by the bank in consultation with the said minister. That's monetary policy instead of a policy framework. Alternative (b) the bank shall discharge its powers and functions with due regard to national objectives on monetary policy determined by the bank in consultation with the said minister. So both of those are the "in consultation with". And the 3rd one drops it in favour of something else. The banks shall discharge its powers and functions in accordance with national objectives of monetary policy determined by the bank in consultation with the said minister. The "in consultation with" remains - those were the 3 alternatives that he proposes. Okay, I'll just circulate this in case anybody wants to refer to it any further. Okay I think those were the kind of few opening remarks if one set the parameters. Can I invite comments, questions, statements whatever. Francois.

FJ Mr Chairman first of all I would like to - I can't get involved in any further discussion now, I must first of all thank Cyrus very much indeed for this in-depth analysis. I think this has gone a long way to clarifying our thinking about a number of points which probably we were confusing and we were using terminology which led to confusion. But I think I would like from now on discuss this with my own people and get their views on it. I'm not in a position to give views now. But may I just put one point in. This question of the value of the currency, the fact that we're not specifically specifying the internal or the external value of the currency. I got the impression that from what Cyrus said there was some thinking as to whether exchange control or such should be a function be controlled by the RB. Was that correct?

CR Chairperson Its not the issue exchange control as such. Its the issue of exchange rate policy. And there is a detailed discussion in the literature as to whether that element of policy should reside within the hands of government or within the hands of the CB. Internationally, its an

international debate. There were many papers in fact I should say many, probably two papers at the CB conference earlier this year which very directly dealt with that issue. And what I suggest I might do is circulate those. I didn't circulate it for the purpose of this - firstly I didn't want to horrify you all at the extent of ... - secondly it wasn't directly relevant to the specific issues that had been raised in the conference. But its not exchange control, its exchange rate policy.

RD Max

MS Thank you Mr Chairman, I'd like to join you in congratulating Cyrus, he's been as usual very thorough. Mine is a question about the process. Cyrus mentioned the need for .. in subsidiary subordinate legislation - ... because then you answer merely the questions that have been raised because you then go into detail of the subsidiary and legislation which would then look at the issues of forms for accountability, the different directions of independence, Model A or model B would this override around policy. And also the issue of conflict resolution and also there you can have much more precise wording in the subsidiary legislation. Now how is this going to be determined. Who actually works on the subsidiary legislation to take on the board the issues raised by Cyrus today and also the need to make sure that the constitution remains simple. But also that there's a strong sort of back up in the legislation that defines all the kinds of issues that we're talking about.

RD I think that, Just to answer that again to try to deliver that debate. Because we are not talking about the details of subordinate legislation. That is the responsibility of the cabinet and the parliament and so on and so forth even the CA. I think what I was trying to raise which I think is a matter which we need to consider is that probably we might agree that we don't want to say we want Model A independence as defined by Guitian in the - sorry who was it, it the constitution - we don't want to write anything like that. But will the constitution permit a fairly broad range of those kinds of alternatives. That I think is probably what we would want. Or would the constitution imply only one of them and if so what does that mean. I think those are probably the issues that we want to discuss. So I think you're right, we want to keep the constitution brief. We want the constitution - the constitution has to comply with the constitutional principle. But the details of what would go into the subordinate legislation, we don't necessarily want to debate but I think we do want to bear in mind what does the constitution imply for what can and what cannot go into the subordinate legislation.

CR Chairperson the thing I'd like to very strongly support an element of what you said here. That one can discern in the literature models today and tomorrow there'll be a new view of the types of models and types of analytical components analyzing independence and so forth. these will change as time goes on. But the constitution, the idea is to remain enshrined

with relatively few changes - only with very, very practical ones. And I do feel its very important that whatever the wording ends up being in the final constitution that it does offer scope for incorporating the evolution of thinking about central banking as time goes on. One's clearly seen that from the 50s to the 70s there was a complete mind set change about the way in which central banks were. From the 70s until today there's been an even further level of progress. Not by developments in economic theory and understanding of human behaviour and expectations in the coming into play of many, many variables. And if one doesn't allow that kind of flexibility, it would may cause problems perhaps 20 or 30 years from now which obviously one cannot foresee in the future but one wants to retain that kind of flexibility.

- RD If there's a gap I wonder whether - I don't know if the law advisor or anybody here is in a position to answer the question I posed. If the wording is something of the order of "there shall be regular consultation but it doesn't define the consultation" is there any implicit understanding in law as to what the nature of that consultation should be yes or no? Is it assumed to be the weakest possible form or does it allow a range of possibilities to be defined in subordinate legislation?

#### Legal

In terms of the interim constitution there are two forms of consultation. You can look at - I think its provided for in s55 there's "in consultation with" and "after consultation". And I'll just read it through. It is s233 and subsections 3 and subsections 4. Subsections 3 says "where in this constitution a functionary is required to take a decision in consultation with another, such decisions shall be required - shall require the concurrence of such other functionaries" and then subsection 4 dealing with "after consultation with" "such decision shall be taken in good faith after consulting and giving serious consideration to the views of such other functionaries". So there are two forms of these forms consultation. If you choose "in consultation with" then you will require concurrence. If you choose "after consultation" or just "in consultation" which to me would mean the same thing. Then the exact nature of the consultation - it is clear that it won't mean concurrence of - how the exact nature of the consultation can be elaborated on further in legislation. But the exact nature of the consultation is something that will not actually be precise.

- RD Cyrus

- CR Chairperson I think those subsections of s233 specifically address two formulations of consultation. One being "in consultation with" and the other being "after consultation with". What is proposed in s196(2) is structured to my mind in a manner which doesn't necessarily require one or the other of those formations. And that is precisely why I was trying to suggest that the wording strikes the kind of balance that is required to incorporate this

necessary tension in the relationship between the CB and government. But nevertheless requires consultation of a form. Now to my mind, My understanding of your question which I think does require addressing is, whether interpreting this constitutional wording as suggested in s196(2) whether this would end up in adjudication as being a very weak form or very strong form of consultation. And I think its a question which advice needs to be obtained on this. I think that the guts of the matter is that if one wants a workable relationship and a healthy tension let's say, one wants a balance in the use of this wording, not the either or which quite obviously was a requirement when the interim constitution was being formulated to specify what the two polar views meant. In this formulation its the balance that's the nub of the issue

RD That's exactly the point. I mean does - Let me put my question just that much more concretely. If it doesn't say "in consultation with" and there is a reference to consultation, does it allow the subordinate legislation to define the process or will it automatically be interpreted as the "after consultation with" ..

Legal

I think interpretation of the constitution is not the same thing as a piece of legislation. The interim constitution is obviously an act of parliament. And even the way it in which it is written, the definition section which is something not consistent with constitutional language. The way you interpret the constitution obviously depends on many issues, socio-political, where you are coming from, where you are going to, what you want to achieve. The court looking at the meaning of "in consultation with" if its not defined in the constitution - can give it any meaning. But "consultation" can mean many, many things. But as defined in the interim constitution, it means there are two forms of consultation. Its "in consultation with" and "after consultation". And "in consultation with", if you do not define in the constitution, if you don't define the type of consultation, then you leave it to the court. But that doesn't preclude legislation to give exact detail on the constitution itself

BH We might require certain investigation in terms of what you're saying. The constitution is giving you an either/or, the two polar situations. One is concurrence, one is just general discussion. But in the interim constitution, what it says is that the SARB this is s196(2) "the SARB shall in pursuit of its primary objectives refer to in subsection 1 exercise its powers and perform its functions independently, subject only to an act of parliament" which implies that in exercise, its functions is subject to an act of parliament and provided that there shall be regular consultation between. " Now it almost seems is the kind of consultation that the interim constitution is referring to is in fact neither "in consultation with" or "after consultation". Its a sort of a grey area kind of consultation. And while I would like an opinion of a legal advisor on this, I think it does give us an "out" in the



sense of the act being able to prescribe more specifically what that consultation should comprise of rather than throwing us into this constitutional directives of accepting two polar opposites of a definition of what the consultation shall be.

RD Francois

FJ I think Barbara's got a point there. But could I just go a bit further with this. I don't think that we have enough information at this time to indicate exactly what nature of that consultation process is. Its well known that there are very regular consultations between the governor and also the minister. But what do they talk about? What sort of issues come up there, how is the decision making, what sort of decision making process follows from that. And I would like to see us explore that too. Because I think that is going to give us a lot more clarity as to what we would like to see formulated in or what should go into subsidiary legislation.

RD I think that is an aspect of it and we could consider the point is made whether we want to invite anybody to have further discussion, there is that possibility, we can think about that a little later. However we also have to bear in mind the point that Cyrus is making. I think what goes on at present and the way it works under the interim constitution is extremely important to us given that it is also a matter of legislation and what did we call it, I mean conventions, customs, whatever traditions and all that sort of thing. That is very important but we are also talking about a set of general propositions which are going to cover a variety of possible models. We won't - I don't think we want to tie the hands of our legislators 20 years down the line to Model A or model B in that sense. We want to create something which may be model B at the moment but if model A subsequently becomes the general prevailing view of the way to go it will also allow them to do that for example. So I think we must bear in mind - I don't know if I hear you Francois is making a suggestion that maybe we want to take some further discussion with some of the role players at the moment. Is that what you were suggesting.

FJ Yes

RD Okay there's a proposal. Barbara

BH I agree with Francois, I think it will give us insight, maybe not for constitutional writing purposes but just give us insight into the various realms - the different realms of consultation. What I would like to propose without trying to cut on short the discussion on this, is that there does seem to be general acceptance but we don't want to be tied down to the constitutional provisions of either "consultation with" or "consultation after" but that we want something that does specify consultation. I think that was the spirit of the ANC submission. That in fact what we were concerned

about is that we want just a weak diluted form of consultation. But we were saying that consultation was a necessary part of the relationship between governments and the RB. And if we can reach a formulation that I think reflects our feelings about that, I think that that is what we're moving towards. So maybe the first step is accepting that we're not moving without polar opposites and are looking for some kind of interim - well, in between measure that still nevertheless emphasises the consultation aspect of that relationship.

#### Legal

Actually there are two forms of consultation. Its either "in consultation with" or "after consultation with". The usage of the words "after consultation with" in the constitution is using a specific way. It says when a function is performed. So when you're saying there should be regular consultation with you are actually talking about "after consultation with" it's just that there are two ways. The bank can approach the minister, the minister can approach the bank. IF the bank is going to make a decision that is going to affect the minister in respect of policy, there shall be consultation. That is what this is saying. But the exact nature of the consultation is something that has to be discussed.

RD I see Francois is packing his bag. Can I just make an appeal because he's he only person from another party other than the ANC that is here. I think we've got to work out a few process issues. If people don't want to continue the discussion much beyond this I think we can attempt to draw to some conclusion in terms of the process issues.  
Barbara.

BH Sorry to hold up Francois just for a while but I think Rob made an important point right at the beginning that what we need to looking at the constitution is that it does somehow provide for certain cardinal principles. And as what has been outlined in Cyrus's submission, the principles of consultation and that's what we're exploring at the moment, the principle of accountability. And I think when we looked at what is ever been put forward, we need to see if that accountability can be catered for within a constitution. I don't - I mean it does say let me just add in there in 197 that the powers and functions of the RB shall be those customary exercise and performed by central banks which powers and functions shall be determined by an act of parliament and subject to such conditions as may be prescribed. Now that to my mind does have an element of accountability but I think this is what we need, that the questions of accountability can arise in terms of this clause and be included in the act. But I think this is what we need to look at. And then the question of dispute resolution mechanisms, I'm not - and this is what I think we would need opinions on and maybe need to explore is whether as it stands now those dispute resolutions mechanisms can be catered for in subsidiary legislations. I think if those three principles - well 4 principles, independence, accountability, dispute resolutions and

consultation are incorporated, I think that's what we need to go back to our principles - for our principles to determine and from their point of view whether these are incorporated or whether we need further additions.

RD Ya I think in a sense the other sort of procedure thing I was going to mention I think we need to make some kind of a report to the CA. But I think maybe we can report to the CA that we are still in the process of exploring the possibility of consensus. I indicated myself where I think it lies on the submission. It lies roughly around the provisions of the interim constitution. However there are some matters to clear up. And some of the matters are whether the simplified version reflects the detail - reflects the sentiments of the interim constitution which is quite a clearly balance there. Secondly whether the internal and external thing should be modified, thirdly whether the consultation dispute mechanism provisions - whether this kind of formulation would allow a variety of possibilities including different kinds of consultation procedures to be defined in the subordinate legislation. And I think some how or other we need to explore those with our principles and say that we have some possibility it would seem to me that we could get a greater consensus on that basis. And I think we need to report to the CA that we are still in the process of doing that. Now - Cyrus

CR One small thing Chairperson, I didn't want disrupt you from the gist of what you were saying. With regard to having other role players addressing the committee it seems to me that with regard to the governor a very really important thing has been raised in the letter that he had written, the letter that was submitted last week where he says in his letter that he feels that the appropriate balance has been struck between the need for a regular consultation and the move towards greater central bank independence. So I think certainly if he were called I think its an important point that he's made there, that provisions of the interim constitution strike that balance in his opinion. He's a very keen role player obviously and I think his comments on this is -

RD Okay I think that there's already a suggestion I don't know whether we need to the governor or the minister or just the governor or what. I Just want to raise another matter also before Francois goes and that is that from Wednesday until the 19th I'm actually going to be away and we need to - if we're going to continue any activity during that period, we need to appoint, we need first of all to agree on it and secondly, we need to appoint an interim chair. I think we also need to continue our discussions in 3 on intergovernmental fiscal relations. And that will go on during this period as well. But that would be under the auspices of 3. But if we want to call a meeting of the governor or the governor and or the minister and we want to do this in the meantime, I that I myself I would be surprised if every party wanted to tell me that the process of consultation and reflection within the parties was going to be finished before the 19th. I would be surprised to hear that. Maybe we can have a sort of report back after that - maybe - the

Monday is the 19th - maybe we can even set the following Monday, the 20th whatever it is, 26th or something like that where we would meet again to discuss the results of our report - of our reflections within our own parties and see what we can come up with from that. But if there is a need to call the governor in the meantime and certainly to report to the CC on the AG, I think that we're going to need to choose an interim chair. So I'd just like to ask first of all if there's any proposals for who can be the interim chair.  
Barbara

BH You know what I would like to suggest is, I'm not sure if its necessary to call the governor in but I see Francois' point - I would like to understand what the process of consultation is now. Estian Calitz gave us in his presentation last week to the Finance Select Committee - he did give us insight which is quite - I thought was insightful. But I think next week it might just be useful to explore that. I don't know if the governor is necessary for that or it might be that just - we could ask the Finance department to send whoever is appropriate to give us the greatest insight into that process. And then we could move on when you come back then.

RD Okay, well there's a proposal that somebody from the Finance Ministry

FJ I would still go back to the governor because you know we're dealing with policy issues here, we must deal with the person who is really thinking about the application of this and how it affects the RB as a whole. I sometimes find that you go back to the Department itself you may get people who have limited vision, they will only deal with specific aspects. For instance the debt control and things like that is very much more specialised. But that we can see, I don't think we need to make a decision as to who we ask now. We can just leave that door open that we can get further information about -

RD Well I'm just trying to say that if we are going to organise another meeting, we need to agree on and who's going to come. We need to agree if we don't invite the governor. That's normally the procedure. We agree as a committee. Well, there are two proposals which could be married if you want, the governor and someone from the department of finance. Okay, try to have them at the next meeting. Invite the governor and somebody from the department of finance together at the next meeting of the committee. Now who's going to be the chair and who's going to go to the CC - you have a proposal. Max.

MS I propose Barbara Hogan

FJ I'll second that

RD Okay Barbara Hogan. Any further proposals. Okay then Barbara you're the interim chair of the committee.

BH Can I just make one other proposal. Whilst we are looking at the question of consultation with both departments and the RB, I think we're also looking at other question. Just accountability. The other features that I think we raised and think could be part of the hearings with them.

RD I don't know if there's any other business. I assume one wants to go. I don't know what's this Pat. Just announcements then.

Pat Public hearings in Qua-Zulu Natal

RD Ya its these public meetings. There's one in Qua-Zulu Natal, Newcastle an Pietermaritzburg. 10th and 24th of June. Em I do think there's a bit of a problem. We've never sent anybody from our committee to any of these - but I don't know, I think we'll just have to leave it. If there are any volunteers, could they please contact the interim chair. Okay. Qua-Zulu Natal ya. Okay. I think then what we should do is then just once again thank Cyrus for the hard work he's put in because I think he's reminded us of some elements of the way forward. Thank you very much.

Sorry, so we're meeting again next week hey. We meet again next week. Next Monday. Well whatever the time is for this committee.

Gill Can I just ask the ANC members if they wouldn't stay for just one minute.