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TC3/19

# **CONSTITUTIONAL ASSEMBLY**

## **THEME COMMITTEE 3**

### **RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT**

**19 APRIL 1995  
ROOM E249  
14H00**

#### ***DOCUMENTATION***

**(Minutes of 3/4/95)**

***Embargoed until 14h00 19/4/95***

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**CONSTITUTIONAL ASSEMBLY**

**MEETING OF THE CORE GROUP  
THEME COMMITTEE 3**

**RELATION BETWEEN LEVELS OF GOVERNMENT**

Please note that a meeting of the above committee will be held as indicated below:

**Date** : **WEDNESDAY 19 April 1995**  
**Time** : **14H00 - 18H00**  
**Venue** : **E249**

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**AGENDA**

1. Opening
2. Minutes of the meeting held on 3 April 1995 (pp 2-5)
3. Matters arising
4. Discussion on Report Heading 2 Phase 1 (separate documentation)
5. General
6. Closure

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**HASSEN EBRAHIM  
EXECUTIVE DIRECTOR  
CONSTITUTIONAL ASSEMBLY**

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**CONSTITUTIONAL ASSEMBLY  
MINUTES OF THE MEETING OF  
THEME COMMITTEE 3  
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT  
MONDAY 3 APRIL 1995 (AT 18H15)**

**PRESENT  
P DE LILLE (CHAIRPERSON)**

Albertyn JT (Alt)	Leeuw SJ (Alt)
Andrew KM	Mabude NI (Alt)
Bhabha M	Mahlalela AF
Blaas A	Mapisa-Nqakula NN
Carrim YI	Modisenyane LJ
Chuenyane LD (Alt)	Montsitsi SD
Cronje PC	Nzimande BM (Alt)
Du Toit DC	Rabinowitz R
Geldenhuis BL	Richards I (Alt)
Gordhan PJ	Saaiman PW (Alt)
Gxowa NB (Alt)	Seperepere MS
King TJ	Shandu EEN
Kondlo N (Alt)	Smith PF
Koornhof GW	Vilakazi MI
Lamani NE (Alt)	

*(\* denotes alternate standing in for full member)*

**Apologies**

A Blaas (TC delegate at workshop), MP Coetzee, CW Eglin, MJ Khasu, ON Khobe (hospital), MS Manie (TC delegate at workshop) and ED Peters

**Absent**

PJ Groenewald, ZA Kota, JW Maree, HJ Mashamba and M Verwoerd

**In Attendance**

D Basson, H Ebrahim (Executive Director), S Haydon, BC Majola, M Mxenge, F Venter and L Wessels (deputy chairperson)

**1. OPENING**

- 1.1 Ms P de Lille opened the meeting at 18h15 and the agenda was adopted.

**2. MINUTES**

The minutes of the meeting held on Monday 3 April 1995 were adopted.

**3. MATTERS ARISING**

**3.1 PENGUIN FILMS**

A concern was expressed that the Media Department has not kept the members informed of the recording details relating to Theme Committee 3 and the parties have no basic documentation to work with. The Secretariat was asked to make the information available.

**4. WORK PROGRAMME**

4.1 The members discussed the draft Work Programme as submitted by the Core Group.

4.2 Mr Conje, who sits on a committee which works on the rules of Parliament, advised they have received instructions that during the whole of the next quarter Mondays and Fridays will be available for the work of the Constitutional Assembly. The only problem being the 28 April which follows a public holiday, which may result in possible low attendance on the Friday. Further time may be negotiated should the need arise.

4.3 The members mandated the Core Group to discuss the following Work Programme:

- i. 6 April - Political Parties submissions to the Secretariat;
- ii. 7 April - Secretariat faxes these submissions to the Technical Advisors, members of the Core Group and those Theme Committee members whose fax numbers are known to the Secretariat;
- iii. 12 April - Technical Advisors forward first draft report on Heading 2 Phase 1 to the Secretariat who will fax the report to members of the Core Group;
- iv. 18 April - Core group will meet to discuss the report.
- v. 19 April - Tabling of the draft report at the meeting of the Theme Committee for discussion. Any amendments will be processed by the Technical Advisors prior to the next meeting of the Theme Committee;
- vi. 20 April - Theme Committee to meet with the Technical

Advisors to discuss the draft report; and

- vii. 21 April - Arrange a workshop.
- 4.4 The members discussed the redrafting of the report on Block 1 and at the request of the Technical Advisors agreed not to make a firm decision at the moment but refer the matter to the Core Group for further discussion.
- 4.5 A request was made that consideration be given to a workshop on the distribution of powers in relation to the ANC and IFP proposals.
- 4.6 The meeting agreed to adopt the work programme subject to minor adjustments.

## 5. GENERAL

### 5.1 Revised Framework

- 5.1.1 The meeting discussed the proposed framework for Heading 2 Phase 2 and were of the view the document would be very useful as an agenda but as a framework the lack of '*problemtising*' of the occurrences of intergovernmental relations, it is not detailed enough for the writing of a submission.
- 5.1.2 The roles and intergovernmental relationships of the Senate, Commission on Provincial Government and Financial and Fiscal Commission, possible additional mechanisms for settling issues of dispute at various levels and whether these should be provided for in the Constitution or parliamentary legislation or be voluntary or by natural development, will be discussed.
- 5.1.3 Prof Majola advised that item '3.4 Senate' is not intended to open the debate on the Senate as a whole but to give an example of the mechanisms that can be used.
- 5.1.4 The Technical Advisors apologised for the late presentation of the document and agreed to the request by the meeting to prepare a document for distribution and discussion.
- 5.1.5 Prof Du Toit advised that there is a great deal of literature available on this subject, eg The Department of Constitutional Affairs prepared a document during the last year, which could be made available to the members of the Theme Committee before discussion takes place.
- 5.1.6 The meeting noted that as Theme Committee 2 is also dealing

with the Senate it may be useful to approach them for information.

## 5.2 Discussion on Constitutional Principles

The meeting continued the discussion of the meeting held on 27 March 1995 on points of clarity regarding Prof F Venter's paper "*Constitutional Principles relevant to the Relationship between the National, Provincial and Local Levels of Government.*"

Note: A transcript of this discussion will be circulated as a separate document as soon as possible.

## 5.3 Revised Documents

The members attention was drawn to the following revised documents:

- i. *Memorandum on Federalism* by Prof DM Davis 27 March 1995; and
- ii. *Framework on Local Government* by Prof BC Majola 3 April 1995.

Note: Copies of these documents will be distributed to those members not present at the meeting.

## 5.4 Contact List

The members were asked to complete and forward the 'Contact List Update' to the Secretariat without delay so as to ensure that documents are correctly distributed to the members during recess.

## 6. CLOSURE

The meeting closed at 19h50.