



**TEMPORARY SERVICES**

The TECHNIHIRE group of Companies (Registration No. 86/03905/06)

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With compliments

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CONSTITUTIONAL ASSEMBLY  
THEMES COMMITTEE 3

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**(Beginning of tape 1)**

**Chairperson:** Good Morning Ladies and Gentlemen. Thank you for your attendance here **this morning**. Just to ensure that we are on the same wave length - **there is a document** which you should have got - **there are spare copies there**, Headed Constitutional Assembly 10 Committee 3 **Relations between levels of Government** dated 31st October 1994 which has the **agenda** for this mornings meeting in it. Then there will also be another document on pink paper. The **top right hand corner** has got Call Group 3, 22th October 1994, SG3/1 which are the Minutes of the Call Group meeting. Those are the two basic documents that we will be operating off this morning. We can just have a look at the Agenda then which are numbered 1 to 26 on the printed version. Is that Agenda in order for this mornings meeting? No problems with that. Fine. We will follow that Agenda. We have had the opening, have the Minutes of the previous Theme Committee, which are attached to the Agenda. There is an error in that, the heading says Monday 27th September and it should say October. Are there any other commendments and corrections required to those minutes? Can we take those minutes as in order? Thank you.

**Mr Suttner:** 6.2 Discusses using Afrikaans in Theme Committee meetings. I think that discussion as to the use of languages other than English happen that Afrikaans was used, but the principle was one effecting all languages.

**Chairperson:** Do we have an agreement to that amendment? Thank you. So we have it as a discussion as use of languages other than English. Thank you. Any other corrections to those minutes? Thank you. Matters arising from the minutes - most of them I think are set out in the third items on our Agenda, but is there anything that doesn't appear to be covered by the remainder of our Agenda. Yes?

I am assuming that the discussion about constitutional experts and whether or not foreigners should be included. The recommendation coming from this will be included in one of these.

**Chairperson:** Certainly you can raise it under the word programme or any other. OK. So we then move on to item nr 4 which is the Call Group report. In essence the **Minutes of the Call Group meeting** which is the other document you have. That is the one headed CG3/1. I will report briefly **paragraph by paragraph** and where there is either comment or decisions required or confirmation required, I will ask

the Theme Committee to do so. Under the heading of opening, the issue did arise at the Call Group meeting - a member of the media, as in fact an observer from I think it was the Chamber of Mines, any way it was an person at that meeting and the issue arose - were the Call Group Meetings open to the media and open to observers, not for discussion, but to observe the meeting. I was in the chair, as far as I was aware, generally within Parliament at present which may or may not then apply to Constitution of Assembly proceedings, the rule is that meetings are open unless decided otherwise. You don't have to decide to open the meeting, you have to decide to close the meeting. The view I sent of most of the Call Group members was that in general the meeting should be open and not closed meetings, but it was felt to bring it appropriate to bring it to the Theme Committee to get endorsement or otherwise of that position. So, that is now open for discussion. Is there anybody who has a point of view that they would like to express on that subject? There doesn't appear to be anybody, so shall I take it then that unless the Call Group on a particular issue decide it is necessary for its meeting to be closed, that otherwise Call Group meetings are open. Right, thank you. The next is the nomination of the Chair. The decision was simply the Chair would rotate on an alphabetical basis and the so to speak term of office of a particular chair would end at the end of the Theme Committee meeting. So in other words, my current turn will end at the end of this meeting and the next chair is then Mrs De Lille, who will then be the Chair until the end of the next Theme Committee meeting. So that is to be reported. The Call Group was asked to look at the issue of alternates and it was agreed that each member of the Call Group may designate an alternate and that the alternates must be members of the Theme Committee 3. In other words, each member of the Call Group can designate a particular individual to be there alternate, but that person must come from presumably the members or alternates of Theme Group 3. it was felt that it was important that all political parties had the right to be at a particular Call Group or that all Call Group meetings on occasions that the Member of the Call Group may not be able to make it, but at the same time, it is also felt that it would be unhelpful to for continuity purposes - if in fact individuals just pitch up and said that I am here in place of so and so, having not necessary being part of any Theme Committee or any preceding discussions. So that is the recommendation from the Call Group. Are there any problems with that? Are there alternative points of view any body wishes to express? We can take that as endorsed. Thank you. The next item is the question of submissions and I think for clarity, you must make it clear, the distinction between

submissions of outsiders external individual organization as against submissions of from political parties from within Parliament. Looking at 4.1 - it was felt at this stage Members of the Call Group should be given copies of all external submissions and at their weekly meetings they would decide which needed to be distributed at this stage to all Theme Committee members. Clearly, for example at present, issues dealing with process, or submissions dealing with process are the kind of submissions are needed to be sent to all members, but if it had something to do with local authority finance, which we maybe might be handling in months ahead, the one would have that distributed at the appropriate time. So, that was attached, attached to that was the fact that 4.2 - if there were very large submissions in excess of 20 pages, that came in, then even the Call Group the Secretariat, rather than just using up tons of paper. You can get a submission of 150 pages. Instead of making a whole series of copies of that, the Secretariat would provide an index of that submission and the Call Group will then look at it and if it felt that that one at that particular stage required to be studied, could request that it could be distributed in full. Now, 4.1 and 4.2, that process of dealing of external submissions at this stage, does that meet with the approval of the Theme Committee? Yes, Peter?

**Peter:**

I was a bit confused by 4.1. If it is a question of timing, in other words you were saying it material right now, that is not press related, that the agreement would be distributed a bit later as as appose to now, if that is the case, I can't see why it should not be distributed now. Mere question of holding on until it is ... to the Theme Committees work at that stage. I think it is immaterial. If something works now and it is substance related, I would rather have it now than in 3 months time. I can't see why we need to wait. The second part, if it is a very long document, the principle of a synopsis is not a bad one. Then I presume the Call Group, if it agrees that it needs to be distributed the whole thing, that would be acceptable.

**Chairperson:**

Yes, I think the first one - so you clearly some things may come in. You have say somebody who's mission in life is day light saving or saving the Whales or whatever the topic might be, may not particularly be relevant to the committee. As you will see under 4.3 the administration will keep an index file of all submission received and this will be circulated to all members of Theme Committee with immediate effect. So when it arrives, that index will be circulated. So people will know what sort of things are arriving and if the Committee as a whole or individual says "look,

I want to see that submission” then clearly they all will be available. It is not going to be anything that has been received that is not available for people who want to see it. I take your point. So your suggestion is that even if the Call Group feels we will be handling that topic later. One may as well distribute it straight away unless it is one of the very dainty ones. Yes, Mr Mashamba, oh sorry and then Mr Gordon.

**Mr Mashamba:** Thank you Mr Chairman. If I remember well, the meeting of the Call Group we also looked at the submissions, how to handle submissions from political parties.

**Chairperson:** I did say there is a distinction. We dealt with that essentially under the work programme which we will be coming to. Present I just want to get agreement on how we handle external ones and then separately make sure there is also agreement on how we handle ones from parties within the ... Yes?

**Mr Mashamba:** I am sorry Mr Chairman, I believe there is a world of difference between party submissions and work programmes. The two are not

**Chairperson:** Go ahead, if you would like to make your point.

**Mr Mashamba:** The point I am making here is that at the Call Group meeting we looked at the question of party submissions - where parties make inputs the way they look at the process. Now, if one could give that an illustration and that where we have submissions from parties, the Secretariat would be requested to look through those submissions and actually work out executive summaries of the party submissions and have them circulated to members of the Call Group. Thank you.

**Mr Gordon:** Chair, my recollection also is the last meeting, the Theme Committee, when we were discussing the work programme we agreed that that for a certain period, perhaps for the rest of this session, all submissions that are received will be distributed to all members of the Theme Committee. That could give us a feel for the kinds of issues that are being raised. In that sense I will disagree with 4.1 as it is currently formulated. If it applies at this present point in time. I think all of us need to come on board as quickly as we can - get the feel of the kind of issues that submissions are raising and the amount of submissions at this point in time is highly likely to be volumeness. So can I suggest to in order to give all of us a feel for what is in those submissions, that

perhaps this, the rest of this session that is another 2 weeks, all submissions is seen as quickly as possible and distributed to all members of the Theme Committee. That we revisit it next year when we really get volumes of submissions and we will find a workable formula, perhaps along the lines that you have suggested here.

**Chairperson:**

Fine, there seems to be a view emerging - so if we were to take it that for the remainder of this session, all submissions received. Are you happy about the reviser of the very long submission. Yes. Subject to the 4.2 requirement that all submissions received will be immediately copied and distributed to members of the Theme Committee for the balance of this session and then early next year we can review if we think the volumes are getting out of hand and we are just wasting time and money in copying too many things. Would that .. Yes

I would like to second that proposal and in terms of very long submissions even say that we should earn of the side of making them available to us than rather limiting them because somebody may be enthusiastic enough to approach many issues and I agree with Mr Gordon that we should ... on the side of providing all submissions right now and look at the issue next year.

**Chairperson:**

All right, well it is for the Theme Committee and not for the Call Group to decide how these matters to handled. So you are suggesting irrespective of the length, even if you get a 200 page document, that we must copy that and everybody must get it?

Mr Chairman, I think one has got to be able to discriminate between unnecessary dribble that somebody has sent - I think one should make a cut off point for 20 pages for example. All I am saying that I don't think one should limit the material provided to us, one should rather ... giving us too much. I think we should leave it to the discession of the Call Group to decide whether this is necessary to **us or not** initially.

**Chairperson:**

OK, your suggestion is we don't have a particular numerical cut off point, but that while there are limits, we should air that on the side of distributing too much rather than too little. OK. 4.2.1 Discussion whether the Secretariat has the capacity to produce the synopsis of any large submissions referred to the Secretariat for clarification. Members felt, that is Call Group members, that in due course this would be the responsibility of the Technical experts appointed to assist the Theme Committee. In other words

making executives and that kind of thing. At this stage we were not certain if the Secretariat was in a position to provide that kind of back-up and that they will in due course will come back to us after looking at it. Hopefully one will have Technical experts in place before very long and that capacity will exist. Does that handle the issue of submissions satisfactory? Right. We move on to item .. Yes?

Mr Chairman, the in respect of 4.2.1 we were expecting feed back from the Secretariat whether they have the capability of handling that.

**Chairperson:** Let me ask the Secretariat whether there is been any guidance on that point as yet.

The Secretariate has received a number of submissions of individuals and what the Secretariat have done is to come with a synopsis of those submissions and we have even come up with an index file in which I suggest the Secretariate has the capability or the capacity of making subnoses of submissions that will come in. Thank you.

**Chairperson:** Yes, Mr Smith

**Mr Smith:** The same issue, are we talking here of purely external submissions or of what we received so far in terms of the notion of the synopsis being made, is that to apply also to internal party documents.

**Chairperson:** I think clearly taking Senator ..... approach of earing, that clearly in terms of Political parties submissions one would ear even more on the side of distributing full documents. But that, where one was not distributing the full documents, but where one was not distributing the full document, at this stage, one could look at a synopsis. Later on we could decide, in fact a thought that was raised, although it is not relative to this point, but that when we request submissions from the public and of organizations outside of Parliament, one specifically request that irrespective of how long the document is, that an executive summery of two or three pages be provided with the document so that in fact it is done by the authors of the document as appose to either the Technical experts or the Secretary to do so. Prof Du Toit?

**Prof Du Toit:** Mr Chair, I am actually making this point here this afternoon - the point is, that I think it is relevant now. There is a difference between administrative functions and other two functions of

specialist like policy and info analyst. Actually we have a problem at this moment in our staff that we were going to get three experts and we said that perhaps they could do this job. The work of a Technical expert, say a constitutional lawyer, is something completely different from a policy analyst or an information analyst. Data analyst and perhaps we could send a message through to the administration, perhaps I hope their budget will hold. That there is need for policy analyst and information analyst to do this kind of extracts which we will certainly going to need. Thank you.

**Chairperson:**

There is a suggestion from Prof Du Toit. Any reaction to that?

Chair, it depends on who writes the reports. If, the reports of the Theme Committee itself to the CC, depending who writes that. That qualifies the type of person one needs as an expert. If it is agreed for example that the Technical experts, that would be one of their functions, you would need a bit more perhaps of a generalist and straight and narrow constitutional lawyer. So, one can make recommendations, but one needs clarity from the CC. And even the CA in precisely what happens in terms of reporting and how we report.

**Mr Smith:**

My understanding, and in fact I am open for correction, that in fact, that is almost the key role of the Technical experts. Is in fact to take the submissions and prepare reports which then first comes to the Theme Committee which then say, we agree that is a correct analysis, of the points of agreements and disagreements and so on. I see that as almost their primary function. I might be missing something, but that is how I understand it. Bearing in mind that neither the Technical experts nor the Theme Committee, have the function of negotiating compromises or middle roots or anything of that sort. We are simply here to receive submissions internal and external and then on the basis of those submissions as I understand it, to identify the common ground and the area which requires attention and negotiation. That is then handed on to the Constitutional Committee who decide how to facilitate that process of negotiation in what ever way and I would say, yes it is, I must say I would see in that sense those individuals should be the kind of people capable of producing synopsis or executive summaries. I wouldn't see that someone is going to need a different kind of animal.

Mr Chairman, in response of what Mr Smith said, and in response to what you have said, I believe that this should be a bottoms up



process and that we shouldn't wait for the Constitutional Committee to make the decisions for us. If we decide how we feel the reports should be written, we should make a proposal on behalf of Theme Committee 3 to the Constitutional Committee and then get their response. I support what you say and I believe a general discussion amongst the Theme Committee has been in that direction. That the Technical experts should help us to draft these reports. And also that they should not be merely Constitutional experts. I had a third point, but for the moment I forgotten it. I think I will leave it at that. I have remembered my third point, that we, as members of the Theme Committee, should participate in some way in the drafting of those reports. Now, we can't all do it together, but perhaps on a rotating basis. One member from each party can assist the Technical experts at various times in the drafting of those reports. That is a suggestion. I haven't seen in my own mind how this would work. You know what sort of time factors would be involved and what place one would do it, but I do feel it that it would be a good idea if we as members of the Theme Committee, were party to the drafting of those reports. Perhaps other people have clearer ideas on that issues.

**Chairperson:**

I don't think we will have to decide that now. Either further down the track when we get to the stage when we have to start drafting reports and we got a feel of how complex or otherwise it would be. We can make that decision. Alternatively in terms of submissions that your party makes in respect of the work programme and the process, you can think further about that and possibly incorporate that in your submission as to how the process should work as we move down the track. Yes?

You have stopped us from discussing the points. I wanted to contribute in that point, but I will reserve my comment till later.

**Chairperson:**

Well, if the Theme Committee feels it is appropriate

Thanks Chairperson, but I thought if the tasks of the Call Group are to look at those reports and insure that it is in the process of ... those reports, it is their responsibility to ensure that the reports are well done. The Call Groups, that is their function. Then they can call upon the members from parties in terms of assistance in whatever way.

**Mr Gordon:**

Chair, just to follow on my colleagues comments. If reference should be made to rule 44 I think, which defines the role of Technical Committees, of the part of that might be in dispute at

this point of time. I think when originally perceived, Technical Committees are there for the purposes of drafting text in the first instance and in the second instance according to according to this 44(b) they may perform any other function assigned to them by a, in this instance a Theme Committee. I think we need to bear that other point in mind as well, in that other context. In the report we will be looking for political balances. As well as perhaps Technical clarity on a particular matter. Political balances can hardly ever be achieved by Technical experts. That is our job and perhaps in the Call Group, that is where we need to find each other in that particular regard. We require some technical matter to be announced in a way which we can't do it ourselves. Perhaps that is what we will draw on a technical expert. We need to just keep that in mind and you are right, when we get closer to that point, we will decide how we use Technical experts. They are not, as I understand it, to do our work. They are here to assist us in a specific regard. One, in a very clear sense to find in rule 44 and the other in a more general sense.

**Chairperson:**

Can we move on from that point? Thank you. If we can now turn to paragraph 5 in the minutes of the Call Group meeting. On the work programme, it was agreed and I think in a sense this was confirmation of what was agreed in the Theme Committee last week, that Political parties should make their submissions by the 7th of November in respect of both the proposed work programme and the names of Technical experts that they would suggest. (B) The Call Group will discuss this submissions in the days following the 7th and report to the Theme Committee on the 14th. So they will try to ... and reach agreement to the extent that they are divergent suggestions as to work programme process. The Secretariat will write to the ACDP who don't have a member on this Theme Committee, to advise them of the time table, so if they wish to make submissions they know when and where they are required. It was agreed that submissions from the political parties would be circulated by the Secretariat as they come in, so during the course of this week, as and when any political party make a submission, on the work programme, that will be circulated. The Call Group needs clarification from the Constitutional Assembly from the number of experts the Theme Committee can appoint. Now since then, we have seen some further documentation that be suggested a maximum of three, and that in fact the implication seems to be that the Constitutional Committee will appoint them rather than the Theme Committee, but presumably our suggestion will be taken into account very seriously in that process. So, those are suggestions relating to the work programme. Are there any

comments or difficulties with that suggested process which is over the next fortnight?

Just a question, 5.1(b) The Call Group will meet **and** discuss the submissions, I understand that and will report the the Theme Committee on the 14th of November. Reporting to the Theme Committee on the 14th November, will that be in the form of a written report or is that a verbal presentation.

**Chairperson:** I imagine that will be a written report.

So that will be the first time the Theme Committee will see it then. Because it is the next day that we will be discussing the CA. If anybody is unhappy with the report, this session, it doesn't give you much time to do anything with it.

**Chairperson:** The intention and other members of the Call Group can correct me if I am wrong, is to make sure that that is out in writing by this Friday. Which is the 4th. Sorry, the following Friday, which is the 11th. So that members of the Theme Committee have the week-end or part of Friday and the week-end. We will try and get it out as soon as can so that we come on 14th, people who want to move specific amendments to that report, would be the programme to be handed in would then be in the position to do so if they were not happy with any suggestion. Ok, if there is nothing further. If we can move to paragraph 6, other urgent business. First of all, 6.1 as a general and ongoing rule, it is suggested .....**(end of tape 1)**

**(beginning of tape 2)**

**Chairperson:** Chorums only supply on a Wednesday. So the Call group will meet sometime after that time and then decide on a recommended Agenda for the Monday meeting. Ok. The Call Group decided at this stage not to absolutely finalize a regular time for their meeting, but it will be after 12 on Wednesday and the intention will be to have it between 12 noon on Wednesday and sometime on Thursday evening, so that on Friday, whatever needs to be distributed, clearly includes the Agenda, would be distributed. It is our information that the Constitutional Committee is looking into the language issue, that was discussed in the Theme Committee last week. Therefore we didn't feel it was appropriate for our Call Group on our own to be, to try and come up with a solution because amongst the problems clearly was the capacity of availability of interpreters and that sort of thing and it is being

looked at by the Constitutional Committee. 6.4 the Constitutional Committee is also looking into the request that Theme Committees 1,2,3, alternate their meeting times with those to Theme Committees 4 to 6 on Monday mornings. So that some Mondays we will meet at 8, as today. Other Mondays we will meet at 10 and the group 4 to 6 would meet at 8. That is apparently also being looked at by the Constitutional committee. So again, the Call Group other than endorsing the view of the Theme Committee, that there should be alternating, was not in the position to take that further. We have also been advised by the Constitutional Committee, that the use of experts from outside of South Africa, was that there, the Constitutional Committee decision was that a foreigner cannot be appointed in positions to be remunerated by the Constitutional Assembly. So they cannot be appointed to the group of Technical experts. That apparently is a decision of the Constitutional Committee. So that was where that one moved. The other item I think I should draw to your attention, there was a document from the Constitutional Assembly, dated 26th of October 1994. Participation at meetings which refers to the position of alternates of Theme Committees and their rights of participation or otherwise, generally I would hope that we are not going to stand on ceremony too much unless it becomes a problem, but just to draw your attention to that this was distributed to all members of Theme Committees. That is the report from the Call Group. Is there anything under the Call Group report which anybody wishes to raise or . Yes, Senator?

Mr Chairman, I know this is a Theme Committee meeting and not a Constitutional Committee meeting, but I don't think that report reflects the discussion that we had. There was no clear decision of what would be done about foreigners. There was a feeling, a consensus I felt, that foreigners should not be part of the three permanent appointees, but that foreigners should be able to be brought in to discuss other relevant issues, if we felt that was necessary. I wondered if this could come up in this Theme Committee. The way the media has put it, the Constitutional Committee, if anything, has fought against the idea foreigners to block Dr Ambazini being party of the process. Dr Ambazini does not even feature in this discussion. He would not be party to that process at all in terms of giving expert advice or technical assistance to the Constitutional Committee or Theme Committee. So, if we can disregard Dr Ambizini all together, and look at the issue for its merits and de-merits, I feel it would be interesting if this Theme Committee would look at it from my own point of view and make a recommendation to the Constitutional

Committee. As to how we feel to be able to consult Technical experts with overseas experience in addition to the three people who are our permanent Technical advisors.

**Mr Smith:**

Mr Chair, this whole issue is very confused, our last meeting I recall, we were actually discussing two issues side by side. One was ... experts on table committees and one was submissions. It strikes me that if we are agreeing on a time table, where this committee will finish its work by the 30th of June and part of the relationship between levels of Government is that whole issue of physical relations. We have an FFC which is not going to finish its work by the 30th of June and we are certainly not getting a report from that body. Now, it seems to me that this is one of these things where one would want, as a Committee, would invite experts to invite us with information of evidence and should it be the case of the German Government or the Canadian Government or Australian Government offer to give us, lend us an expert, give us ... I assume we are not going to except, ruling by the see that no foreign experts get involved, it doesn't mean that we are procluding, receiving submissions from experts. There was that ambiguity and the way it came through was that we were not going to receive anything from anybody either.

Perhaps I had to leave a bit early last time, so I avoided some of the debate on the subject. The only decision that have cares to be made are that foreigners cannot be appointed to be positioned, in positions to be remunerated by the Constitution of Assembly. Which I were seeing as saying, the Technical experts of 3 cannot include foreigners. It is, it would appear to me silent on all other issues and clearly until such time if something to the contrary is sent, if something is sent in as a submission, whether under cover of a letter of a South African or not, or if we decide that we at some stage of our proceedings has hit a particular problem or there is somebody that is particularly expert in a field, then together with other people to give evidence, we want to invite them to give evidence, I think we will use our discretion at that stage. So I don't think we will have to make a rule now, and I mean I am quite sure there may be people from time to time appear before various Parliamentary committees and certainly I am involved with Public Account and Finance in particular and I don't think we have ever asked somebody to come and give evidence to show their citizenship certificate. If they are relevant to the topic and the Committee decide as a Committee they should hear the person, they hear them.

**Mr Gordon:**

Chair, I wonder why we are ..... I thought Mr Smith was present as a number of us at the Constitutional Committee meeting. Where ultimately there was a very clear decision on this matter. That is why I am wondering why you at such great length to look at this issue. The decision is a two fold one and as I understand a very simple one. The first one is that, non South Africans should not be participants in this process. By definition, that means that they could not be members of the Technical Committees. But that secondly, if in the event that there is a need to consult for someone or have an opinion expressed, that could be looked at outside the framework of participation. I think that is a clear enough framework to work with at this particular point in time. Whilst I understand our colleagues passion for foreigners, that really I think that decision of the CC is very clear and it can take care of most of the eventualities that we are talking about here.

**Chairperson:**

It seem to me that we have got as with, we are going to get request of very large number of people to give evidence and we are going to have to make decisions on how we allocate our time and who we invite to give evidence and one will then address the issue. Can we move off that one? Thank you. The next item on our Agenda is work programme which I think, to the extent that we are waiting and deal with this matter later. There is nothing further to discuss at this stage. We have decided in essence on the process by which we will agree to a work programme and **that** is all we need to discuss at this stage. Unless somebody else wishes to raise something under work programme, can we move on? Thank you. The next item is any other urgent business. Is there any? No. Thank you. It gives me great pleasure to close the meeting. Thank you for your attendance and to remind you the next meeting of the Theme Committee is, at present it will be at 8 o' clock next Monday. We hope the constitutional committee will apply their minds and it might be at 10 o' clock. Thank you for your attendance. The meeting is now closed.

Sorry, Just an issue of the Call Group. Is there any arrangements for the Call Group to meet today?

**Chairperson:**

May I ask the members of the Call Group, Mrs De Lille is now the chair, but if the members of the Call Group can just stay behind for a moment and we can compare diaries and try and set a

Mr Chair, can't we dispose of that. I don't think there is any work for us to be done before the 7th.

**Chairperson:** Let us rather not hold everybody up. Can the Call Group just hold on right now and we should be able to sort this out in the next few minutes. Whether we want to meet or not. Thank you ladies and gentlemen. Can members make sure they sign the attendance register, it is up here. (end of tape 2)

(beginning of tape 3)

According to the DP, the following, the IFP only feels the following. The National Party feels the following, the ANC feels only the following. When if we cannot come to an agreement with most of them in this particular Theme Committee or Call Group, but it must be recorded as consent as a generate, because consensus may mean, this consensus is the minority report and the Constitutional Committee has avoided the question of majority report and minor report, but contentious and non-contentious, that has been agreed.

We take that terminology and you quite rightly point us to it arose by any name, notwithstanding, let us use the words contentious and non-contentious. We take a point in making and we will in future talk about contentious and non-contentious issues. Not consensus.

In regard to the question of Commissions preferring matters of Technical Commissions, I have no clarity in my mind as to what a Commission is. What is meant by it and what is the difference between a Commission and a Technical committee. What is the function of a commission? What is the status of the commission's report. I don't have no clarity at all. Could you perhaps give us a lead in that regard.

**Chairperson:** A Commission is I think is distinguished from Committees of the CA in the sense of the Commission can be composed of a non-members. Its a Committee or a group of members and non-members requires into a subject matter which cannot be handled competently by a State Committee or a Committee of the CA. I think that is the primary distinction. That it include in it the international recognized exhibits on a specific field for which there is no expertise on the CA. We had the example of a Land Commission in the World Trade Center, where the issues of land and boundaries effected a great many issues and was sent to a body of specific compose experts. I think its it dominantly the guiding lines.

What is the difference between a Commission and a Technical Committee?

We refer to rule 37 on page 13. A commission may be appointed by the Constitutional Assembly to investigate any matter in which the Constitutional Assembly or a Committee or other body appointed by the Constitutional Assembly requires information which cannot conveniently be obtained through the procedures of the Constitutional Assembly or such Committee or body. That technically puts what I am trying to say more ... to you.

Could we give the Secretariate a moment to ask us questions. They have been given a brief. They have listened to the debate, are they happy that they can now go and produce the goods that are required. Are they got any questions from their side? We are just asking the Secretariat if they have questions that need answering so they can go and do their job.

What we would like to know - do we have to produce a written report of just give you the minutes of the meeting? Why exactly is the Call Group asking from us?

The Call Group has asked me to produce another report taking into account today's discussion and for us to share that report at an ad hoc meeting of the Call Group. We need to set time and date for the next meeting. The Call Group to receive from the Secretariat a revised report. Could we consult our diaries working back - if we meet

Before you go to that Mr Chairperson, I am just wondering whether we were giving enough flesh today to the Secretariat or rapporteurs or whatever we call them, to draw another report regarding the work programme, because it seems, I am in the likelihood from what I have seen our inputs do not differ much from what is on the document prepared. Except that we have indicated, on the question of process, there must also say something, in other words after this other things. Otherwise from the report itself, what have made, I not have any difference from what is on the paper. Perhaps they are more intelligent than myself and they understood any other thing, because I find all that we have said is exactly what they have tried. It might need some different wording here and there - where said for instance, they must indicate what the IFP says. I am using the IFP as one, just as one of the parties. What the IFP says, which matters are to be attended by commissions? What does the NP say and what does



the ANC say? Here it is almost what they have indicated. What do one worries, what is it they are going to say now on that, the process I understand. They didn't come, they didn't take all these matters on process on board. Now, on this other matters we must indicate to them what it is that we want to be included, excluded because at least we have their collated report here. That at least we point out the mistakes. Say we see (a) must no longer appear (b) must no longer appear (c) must no longer appear. At least they have a better light as to what they must bring to us.

I doubt whether we can in fact view the Secretariat very much more detailed indications of what we require. We have had a full discussion on this issue. I raise the point for example, if you look at their headings and I don't except that the draft report is a fair reflection of what the query submissions contain, many of the reports, part of the report, are in fact lift verbatim of the ANC's document. Many of the headings are headings that appear of concerns of the ANC. It is a very bias document in that sense. We have drawn attention to that. We have drawn attention to the fact that under each of these headings there needs to be sub-items which needs a broader perspective of the parties views who have made submissions. We have also pointed out that the question of the work load and the subdivision of responsibilities of areas of overlaps needs to be further laborated and we also indicated that the question of process was not dealt with in full in this document. Those indications, I think, are all that we can give and should give to the Secretariat and I believe the Secretariat is now in a position to produce a draft and we re-visit some of these issues as a Call Group when we meet.

Mr Chairperson, that is where we differ with you. If you say this is ANC orientated, according to the top headings, we totally disagree with you. That is why I say we are worried about it. We took, the ANC took the topics given by the CA, in other words the ... character of the State and look at what the Executive has said to be the structure. In other words only put the topics concerned in the structure, that is all. They are not ANC documents. We never made out this documentation in the CA. That they must be for Theme Committee 1. All we did is, in other words we may just get transferred, a person differ without that. The separation of powers must not be there. It must not be a priority. It must be something else. This are not all topics. The topics given to this Theme Committee to work on, in other words, as how to arise them then. It is for this Committee to decide, but to say this is ANC orientated, this topics is from the ANC, they are not from the

ANC, they are from the documentation and therefore the arrangement that might differ. It might be the process, as I indicated earlier. I have no quarrel with it and we agree with you, but when you talk of topics - is exactly, in other words, given a stereo type of some kind with the guide line of the executive. Now we took the topics given as, as temps of reference into those where anybody may take this one from (a) to (b) the other one at the end and so on. What we have not had except the general remark, that is ANC orientated, which we appose strongly that it is ANC orientated. We believe the topics can re-arrange in any manner. We agree with that, somebody may differ with us in that. But the topics must be there. Whether it start with the first one or the last one or the one comes in the middle. They must just be there, because the CA has said this is what the Theme Committee must do. That is why I have a problem. What will be the nature of the new report? Except that they are adding the ... of process on which we agree with.

**Chairperson:**

This is how democracy work. You have a point, he has a point we have tabled the points. This is what democracy is about. Let us just now leave the matter. We have agreed that this will re-visit the report and let us see what they come up with. Can I ask for, before we close, we must close now, may I ask for a time and date for the next Call Group meeting. We got to meet before Wednesday late so that Thursday and Friday the Secretariat can distribute.

Just a point, Mr Chair, I think it is very disturbing what you have just alleged. Disturbing because we are the people who asked the Secretariat to draw up this report and the following day you make certain allegations. I would rather add, that if we are going to start on that trend, please let us write a refrain and take a long time and we combine the report as members of the Call Group. We do that kind of work and I don't think as well as members of the Secretariate, perhaps it does look like that, perhaps it doesn't. I think in future, then let us just reframe in doing that.

We must break the meeting now. Other people need to enter the chamber. Can we clarify this position, meeting - the first item on the next Call Group meeting - we need quickly a time before we break up the meeting.

Mr Chairman, by a point of order, we are offended by saying that this is ANC orientated when it is the CA who has decided. We

would like the Chairman to withdraw that. You can't say one have taken the topics from what the CA, the references the CA

Allow me to cut you short Sir. I withdraw that remark.

Thank you very much.

I am not here to fight with anybody. I withdraw the remark.

We need to meet late Wednesday so that Secretariate has overnight and Thursday can distribute the document. Four o' clock Wednesday, is there anybody that can't make it 4 o'clock Wednesday?

I can't be available. Only up to 5 o' clock, one hour.

Four o' clock on Wednesday, Venue?

I am in .... I hope it is finished by four. It ought to be. Normally it is finished by then.

In the circumstances I think this Call Group will have to have times, even work later after the session of the CA or the National Assembly or whatever the case and I think that we should find the time. Four o' clock seems to be a possible time then when it has to be later, so be it. We have to meet on Wednesday some time. Either 4 o' clock or on closure of the Assembly, which ever the members prefer.

I won't be available. I have a meeting that will start at 5 o' clock and will last until 8 o' clock

Right, 4 o' clock on Wednesday. Venue? The Secretariate will advise us on a venue. Four o' clock on Wednesday. Thank you.

**(end of tape 3)**