

2/4/3/24/20

TC3/20

# **CONSTITUTIONAL ASSEMBLY**

## **THEME COMMITTEE 3**

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

**8 May 1995  
ROOM E249  
14H00**

#### ***DOCUMENTATION***

**(Minutes of 19/4/95)**

***Embargoed until 14h00 8/5/95***

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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** : **MONDAY 8 MAY 1995**

**Time** : **14H00 - 17H30**

**Venue** : **E249**

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**AGENDA**

1. Opening
2. Minutes of the meeting held on 19 April 1995 (pp 2-3)
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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**Enquiries:** Mbasa Mxenge Room 9-09 Regis House (Tel 403 2108)  
Sandra Haydon Room 9-08 Regis House (Tel 403 2275)

**CONSTITUTIONAL ASSEMBLY  
MINUTES OF THE MEETING OF  
THEME COMMITTEE 3  
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT  
MONDAY 19 APRIL 1995 (AT 14H10)**

**PRESENT  
DC DU TOIT (CHAIRPERSON)**

Albertyn JT (Alt)  
Andrew KM  
Bhabha M  
Blaas A  
Carrim YI  
Chuenyane LD (Alt)  
Coetzee MP  
Cronje PC  
de Lille P  
Geldenhuys BL  
Gordhan PJ  
Gxowa NB (Alt)  
King TJ

Koornhof GW  
Lamani NE (Alt)  
Mahlalela AF  
Maine MS  
Maree JW  
Mashamba HJ  
Modisenyane LJ  
Richards I (Alt)  
Saaiman PW (Alt)  
Seperepere MS  
Sulliman MA (Alt)  
Verwoerd M  
Vilakazi MI

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

**Apologies**

CW Eglin, ON Khobe and MS Manie

**Absent**

PJ Groenewald, ZA Kota, NN Mapisa-Nqakula, SD Montsitsi, R Rabinowitz, EEN Shandu and PF Smith

**Technical Advisors**

Prof D Basson and Prof D Davis

**In Attendance**

S Haydon and M Mxenge

**1. OPENING**

Prof DC Du Toit opened the meeting at 14h10 and the agenda was adopted.

## 2. MINUTES

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

## 3. MATTERS ARISING

With reference to 5.1.5 Prof Du Toit advised that he had given Mr Mxenge a document (Notes on Intergovernmental Relations in Federal Systems, including fiscal arrangements, in Canada, Germany, Australia, the USA and Switzerland) produced by the Department of Constitutional Affairs for distribution to the Theme Committee.

## 4. DISCUSSION ON REPORT HEADING 2 PHASE 1

4.1 Prof Basson spoke to the Report on Heading 2 Phase 1 '*National and Provincial Legislative and Executive Competencies*'. Prof Davis then gave an input on the Constitutional Principles relative to this section. He expressed the view that in preparing the report the Technical Advisers had had some difficulty in some areas deciding on the common ground and recommended further discussions so as to take the matter forward.

4.2 The meeting agreed to adjourn to allow time for parties to caucus before the next meeting of the Theme Committee on 20 April 1995 by which time the Technical Advisors would have prepared a document outlining the areas of agreement and disagreement.

4.3 The Technical Advisors were asked to flesh out the table in Annexure A of the Report (using Annexure A of the report submitted by Sub-Theme Committee 6.4 on 27 February 1995 as a guide) as the report in its present form was too brief. (This part of the report would not be required for the meeting on 20 April 1995).

## 5. CLOSURE

The meeting closed at 16h07.

**CONSTITUTIONAL ASSEMBLY**

**CORE GROUP 3**

**RELATIONSHIP BETWEEN  
LEVELS OF GOVERNMENT**

**3 April 1995**

**Room E249**

**20h00**

**DOCUMENTATION**

**(Minutes of the meeting held on 30/3/95)**

**Adopted**

**Adopted**

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## CONSTITUTIONAL ASSEMBLY

### MEETING OF CORE GROUP THEME COMMITTEE 3

#### RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

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

**Date :** 3 April 1995

**Time :** 20h10

**Venue :** E249

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#### AGENDA

1. Opening
2. Minutes of the previous meeting
3. Matters arising
4. Work Programme
5. General
6. Closure

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**H Ebrahim  
Executive Director  
Constitutional Assembly**

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**Enquiries:** Mbasa Mxenge, Regis House Room 9-09 (tel 403 2108)  
Sandra Haydon, Regis House Room 9-08 (tel 403 2275)



**CONSTITUTIONAL ASSEMBLY**  
**MINUTES OF THE MEETING OF**  
**CORE GROUP 3**  
**RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT**  
**THURSDAY 30 MARCH 1995 (AT 14H15)**

**PRESENT**  
**KM ANDREW (CHAIRPERSON)**

Carrim YI (Alt) \*  
Du Toit DC (late)  
Gordhan PJ (Alt)\*

King TJ  
Smith PF

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

**Technical Advisors**  
None

**Apologies**  
PJ Groenewald and Prof Du Toit advised that he would be late.

**Absent**  
P de Lille and NN Mapisa-Nqakula

**Attendance**  
Sandra Haydon, Mbaso Mxenge and Thandi Mngadi-Kgosidintsi

**1. OPENING**

The meeting was opened by KM Andrew and the agenda was approved.

**2. MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 23 March 1995 were adopted.

**3. MATTERS ARISING**

**3.1 FINANCIAL AND FISCAL WORKSHOP**

It was suggested that as KM Andrew was attending the workshop representing TC6.2 and members of the Freedom Front are unavailable, the ANC should send two persons. The matter were referred to Prof Du Toit and the Secretariat to settle.

#### 4. WORK PROGRAMME

- 4.1 The meeting agreed that as the Work Schedule had not yet been adopted by the Constitutional Assembly, the draft schedule as prepared by the Core Group last week would be circulated to the Theme Committee for their perusal.
- 4.2 The members were of the view that the 3½ days (18 from 12h00 - 24 April) set aside for CA work must be fully utilised. Issues to be addressed would include the Political Party submissions Block 2, Phase 1, the draft Report on Phase 1 and the Work Programme. The Core Group would finalise the programme the following week.
  - 4.2.1 The meeting agreed that the Political Party submissions for Block 2 Phase 1 due on 7 April be forwarded immediately to the Technical Advisors who would prepare the first draft Report by 12 April 1995 for distribution and discussion by the Core Group on 18 April 1995.
  - 4.2.2 The Secretariat was asked to fax the Political Party submissions to those members who have access to fax machines and ensure that copies were in the members pigeonholes by 18 April 1995.
  - 4.2.3 The meeting further agreed that any amendments would be made to the report for submission to the Theme Committee meeting on 19 April 1995.
  - 4.2.4 The Technical Advisors might be asked to attend one meeting to answer queries.
- 4.3.1 The members expressed concern that information requested from the Technical Advisors was outstanding. The meeting asked the Secretariat to write to the Convenor of the Technical Advisors for the following documents to be submitted to the Core Group, and report back accordingly:
  - i. By Wednesday 5 April 1995 - revised report on Block 1 for party approval; and
  - ii. By Monday 3 April 1995 - proposed framework for Block 2, Phase 2.
- 4.3.2 The meeting asked the Secretariat to write to the Executive Director formally requesting that the Theme Committee be given the chance to view the Constitutional Text prior to submission to the Constitutional Committee.

**5. FRAMEWORK**

No discussion.

**6. GENERAL**

**6.1 AGENDA FOR TC MEETING 3/4/95**

The meeting agreed that the Theme Committee meeting of 3 April 1995 continue with the discussion on the Constitutional Principles.

**6.2 WORKSHOP - TRADITIONAL LEADERS & CUSTOMARY LAW**

The meeting was advised that flyers advertising the workshop on Traditional Leaders and Customary Law had been widely circulated. The Secretariat was asked to distribute the programme to the members of the Theme Committee.

**6.3 LOCAL GOVERNMENT - SUB-THEME COMMITTEE**

6.3.1 A memo proposing the establishment of a sub-committee for Local Government was tabled. The issue was referred to the Theme Committee meeting on 3 April 1995 for discussion.

6.3.2 The meeting agreed that Local Government will not be discussed until the Work Programme was sorted out.

**7. CLOSURE**

The meeting closed at 15h40.

CG3/20

# CONSTITUTIONAL ASSEMBLY

## CORE GROUP 3

### RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

18 APRIL 1995  
ROOM G26  
11H00

#### *DOCUMENTATION*

(Minutes of the meeting of 3 April 1995)

Adopted

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**CONSTITUTIONAL ASSEMBLY**

**MEETING OF CORE GROUP  
THEME COMMITTEE 3**

**RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT**

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

**Date : 18 April 1995**

**Time : 11h00 - 13h00**

**Venue : G26**

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**AGENDA**

1. Opening
2. Minutes of the previous meeting
3. Matters arising
4. Draft Report Heading 2 Phase 1
5. Election of Co-chairperson to replace KM Andrew
6. General
7. Closure

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**H Ebrahim  
Executive Director  
Constitutional Assembly**

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**Enquiries: Mbaso Mxenge, Regis House Room 9-09 (tel 403 2108)  
Sandra Haydon, Regis House Room 9-08 (tel 403 2275)**

**CONSTITUTIONAL ASSEMBLY**  
**MINUTES OF THE MEETING OF**  
**CORE GROUP 3**  
**RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT**  
**MONDAY 3 APRIL 1995 (AT 20H10)**

**PRESENT**  
**P de LILLE (CHAIRPERSON)**

Andrew KM  
Gordhan PJ (Alt) \*

King TJ  
Smith PF

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

**Apologies**  
None

**Absent**  
DC Du Toit, PJ Groenewald and NN Mapisa-Nqakula

**Attendance**  
D Basson, H Ebrahim, S Haydon, B Majola, M Mxenge and F Venter

**1. OPENING**

The meeting was opened by P de Lille and the agenda was approved.

**2. MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 30 March 1995 were adopted to show that KM Andrew opened the meeting (para 1).

**3. MATTERS ARISING**

None

**4. WORK PROGRAMME**

- 4.1 The Technical Advisors will meet in the Transvaal early next week to put together a report on Heading 1 Phase 2 to be cast as far as possible in the format as agreed upon by the Constitutional Committee outlining the contentious and non-contentious issues. Prof

Venter was of the view that it was not very easy to identify contentious and non-contentious issues before there had been a debate.

4.2.1 Prof Venter advised that there was a real difficulty in rewriting the report on Block 1. The submissions on which that report was based were very wide ranging often in vague and general terms.

4.2.2 The meeting agreed that the Technical Advisors would:

- a) Write a report on those issues contained in the first report which were prima facie in contrary to the those issues which were Constitutional Principles, for submission to the Constitutional Committee.
- b) Write a report recapping what workshops the Theme Committee had been involved in, what papers had been submitted and give their perspective of where we were going.

4.3.1 The meeting agreed on the following programme:

Tues 18 April 11h00	Core Group to discuss the report on Heading 2 Phase 1, amend where necessary and distribute to the members of the Theme Committee.
Wed 19 April 14h00-18h00	Theme Committee to discuss the draft report and Technical Advisors to rewrite as necessary, Secretariat to distribute on the same day or very early on Thursday 20 April. Prof Basson and Prof Majola to attend.
Thur 20 April 14h00-18h00	Theme Committee to discuss the second draft of the report. Prof Basson and possibly Prof Davis to attend.
Fri 21 April 09h00-12h30 V454	Workshop on Local Government with input by the Technical Advisors attached to the Ad Hoc Committee on Local Government.

The Core Group would meet if necessary.

4.3.2 The meeting agreed that there were three purposes of the discussions around the report:

- i. To understand party positions;



- ii. To be able to define where the contentious areas were; and
- iii. To explore whether there was a way forward in terms of those contentious issues. This was very important so that the Constitutional Committee did not have to rehash the debate which had taken place in the Theme Committee.

4.3.3 Prof Venter would not be able to attend Theme Committee meetings until the end of June due to prior teaching commitments. Prof Majola would not be able to attend meetings on 20 - 21 April. Professors Basson and Davis would be available for the week of 18 - 21 April.

4.4 The meeting agreed that the Technical Advisors would present a paper on *Intergovernmental Relations* on Monday 24 April 1995.

## 5. GENERAL

### 5.1 Resignation of Co-chairperson

Mr Andrew's letter of resignation as Co-chairperson of the Theme Committee was tabled for discussion at the next meeting of the Core Group.

## 6. CLOSURE

The meeting closed at 20h55.