

FILE

214(3)3/17

CG3/12

CONSTITUTIONAL ASSEMBLY

CORE GROUP 3

**RELATIONSHIP BETWEEN
LEVELS OF GOVERNMENT**

Monday 27 February 1995

Room E249

(09H30)

DOCUMENTATION

(Minutes of the meeting held on 20/2/95)

TABLE OF CONTENTS

1	Notice and Agenda	Page 1
2	Minutes	Pages 2 - 6
3	Issue of Overlap and other issues requiring joint meetings of Theme Committees	Pages 7 - 8

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 : 27 February 1995

Time : 09h30 - 11h00

Venue : E249

AGENDA

1. Opening
2. Minutes of the previous meeting
3. Matters arising : See Agenda items below
4. Framework for Heading 2
5. Timetable for Heading 2
6. Report on submissions from civil society
7. General
8. Closure

**H Ebrahim
Executive Director
Constitutional Assembly**

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

CONSTITUTIONAL ASSEMBLY
MINUTES OF THE MEETING OF
CORE GROUP 3
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT
MONDAY 20 FEBRUARY 1995 (AT 16H00)

PRESENT
P de LILLE (Chairperson)

Andrew KM
Dingani ZA (Alt)
Groenewald PJ

King TJ
Mapisa-Nqakula NN
Smith PF

Technical Experts
Professors Basson and Venter

Apologies

DC Du Toit. PJ Groenewald and PF Smith were unable to attend the 2nd part of the meeting.

Prof Majola and Prof Davis who is in Australia

Attendance

Sandra Haydon and Mbaso Mxenge

1. OPENING

Mr K Andrew opened the meeting. The meeting was chaired by Ms P de Lille who arrived shortly after the meeting started.

2. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on Tuesday 14 February 1995 were adopted with the following amendments:

- i. Para 2.3.i tabled;
- ii. Para 4.2.1 Principals;
- iii. Para 4.2.2 'The National Party proposed a different course and

suggested the Technical Experts be rebriefed and that they draw up the Report.' was added;

- iv. Para 4.3 was deleted and put under the heading of **5. GENERAL** and amended to read 'The view was expressed that the Core Group should hold further discussions with the Technical Experts.'; and
- v. **CLOSURE** now appears as para 6.

3. MATTERS ARISING

As below.

4. REVIEW OF THE REPORT ON BLOCK 1

The members agreed that a lesson had been learnt from the drafting of the Report for Block 1. The Technical Experts should be adequately briefed and the timetable should be both realistic and manageable.

5. FRAMEWORK FOR HEADING 2

(Note: The meeting adjourned at 17h15. This item was discussed with the Technical Experts when the meeting reconvened at 18h00)

- 5.1 The meeting agreed that the Framework must be decided upon before the closing date for the Report on Heading 2 can be confirmed.
- 5.2 A proposed framework was submitted to the Core Group for consideration as follows:

- 1. *Final suggestion for Framework for discussion of Legislative and Executive Competencies of national and provincial government. Required as soon as possible.*
- 2. *Equitable fiscal and financial allocations.*

Constitutional Principles XXV, XXVI and XXVII require, inter alia, that there be a Financial and Fiscal Commission, fiscal powers and functions at each level of government, equitable sharing etc.

Request: That the Technical Committee researches international practices and experiences in this regard with particular

reference to the structure and mechanisms used, including the powers, functions and composition of such structures. Required by 30/4/95.

5.3 The Core Group requested the Technical Experts to draft a proposal on the Framework for Heading 2 with as many sub-headings as possible.

5.3.1 The Technical Experts agreed to fax the details to the Secretariat by Wednesday 22 February 1995. The Secretariat would circulate the draft to the members of the Theme Committee by Thursday 23 February 1995.

6. RELATIONSHIP BETWEEN CORE GROUP AND TECHNICAL EXPERTS

6.1 The meeting agreed that the Core Group should discuss with the Technical Experts the relationship of the Core Group and the Technical Experts in relation to the Terms of Reference.

6.2 The Core Group suggested that the Technical Experts deal with the following issues:

- i. Assist the Core Group with the preparation of reports from the Political Party submissions within an agreed upon Framework;
- ii. Synthesise submissions and draft reports on submissions from civil society;
- iii. Draft the Framework for each Heading with suggested sub-headings;
- iv. Research issues as requested by the Core Group;
- v. Identify and advise on overlaps and recommend referral to another Theme Committee;
- vi. Advise the Theme Committee on the technical aspects of the work of the Theme Committee;
- vii. Identify and describe in simple language the Constitutional Principles relevant to the issues under each Heading; and
- viii. Identify and list issues for the Theme Committee to decide which are contentious and non-contentious.

- 6.3 The meeting agreed that the Political Parties would not be identified in the Report but the submissions would be attached.
- 6.4 The meeting agreed that the Secretariat formally approach the Financial and Fiscal Commission with an invitation to brief the Theme Committee on how the FFC can assist with issues that will be addressed by the Theme Committee.
- 6.5 The members discussed the Framework in relation to the input by the Technical Experts and the necessity that they be no-partisan at all times.
- 6.6 The Technical Experts advised that they will be available on the Monday of each week.

7. PROPOSED VISIT BY MR JOE CLARK

The ANC advised that Mr Joe Clark, ex Prime Minister of Canada and constitutional expert, is available to address the Theme Committee on Friday 24 February 1995 10h00 - 11h30. Although this clashes with the Debate on the President's address it was felt that as this is the only time Mr Clark has available, members should be made aware of his visit.

8. GENERAL

- 8.1 Mr Groenewald advised that he had received notices of workshops to be held in two Provinces. The Secretariat was asked to find out the details and whether the workshops are being arranged by the Commission on Local Government.
- 8.2 The meeting agreed that as the Framework and closing date for Heading 2 has not been finalised the Core Group would request separate advertising as has been allocated to Theme Committee 2.
- 8.3 The meeting agreed that the participation of 12 members from the Theme Committee in the Public Participation Programme would have to be discussed by the Theme Committee which could not be scheduled before Monday 27 February 1995. It was deemed impracticable for members to attend Public Participation events scheduled for Saturday 25 February 1995.
 - 8.3.1 The members were of the view that inadequate details and notice had been provided.

9. AGENDA FOR THEME COMMITTEE MEETING 27 FEBRUARY 1995

9.1 The meeting agreed that the following should be agenda items for the meeting of 27 February 1995:

- i. Agreement of Framework for Heading 2;
- ii. Agreement of timetable for Heading 2;
- iii. Public Participation Programme from 4 March 1995 onwards;
- iv. Advertisement for Heading 2;
- v. Core Group report on discussions with the Technical Experts;
and
- vi. Technical Experts report on submissions from civil society.

9.2 It was agreed that the Core Group and the Technical Experts will meet at 09h30 - 11h00 on Monday morning and the Theme Committee meeting be postponed until 11h30. The venue remains E249.

10. CLOSURE

The meeting closed at 20h00.

CONSTITUTIONAL ASSEMBLY

TELEPHONE: (021) 403 2252
FAX: (021) 461 4339
INTERNATIONAL: (27) 21 403 2252
FAX: (27) 21 461 4339

PO Box 15
CAPE TOWN 8000
REPUBLIC OF SOUTH AFRICA

REF No:

17 FEBRUARY 1995

To: All Chairpersons and Technical Experts

**RE: ISSUES OF OVERLAP AND OTHER ISSUES REQUIRING JOINT MEETINGS OF
THEME COMMITTEES**

1. Joint Theme Committee meeting on Traditional authorities

This memorandum follows the joint Chairpersons' meeting on Thursday, 16 February 1995 where the aspect of overlap between Theme Committees was raised. A recommendation was made that a joint meeting of the relevant Theme Committees be set up immediately to discuss the aspect of Traditional Authorities.

The draft agenda is as follows:-

1. Traditional Authorities: Overlap between Theme Committees. Are they structures of Government or specialised structures?
2. Distribution of work between the respective Theme Committees
3. The Ad-hoc Technical Committee on Traditional leaders - What is their role?
4. Time-frames
5. Any other business of relevance to the aspect of Traditional Authorities.

Venue: E249

Date and Time: Monday 6 March 1995, 09h00 - 10h00

All Chairpersons and Technical Experts within the affected Theme Committees are requested to discuss this matter and asked to attend.

2. Other aspects requiring joint Theme Committee meetings

At the last Chairpersons' meeting, many members present had requested further joint meetings on a range of other issues. In order for the Administration to facilitate this request, we require all Theme Committees and technical experts to forward proposals on the types of Joint Theme Committee meetings they would like to see, issues to be discussed and possible dates. Please forward all proposals to the Administration through the managing Secretary by not later than **28 February 1995**.

3. Convenors for Technical Committees

This aspect has been raised in the terms of reference and in subsequent meetings. It would be appreciated if all technical committees could address this issue and forward further details to the Executive Director. Having a convenor for each Technical team would greatly facilitate communication.

Furthermore, could Technical Committees inform us what Joint meetings of Technical Experts they would like to see and how the Administration could possibly facilitate this request. Proposals should reach the Executive Director not later than **28 February 1995**.

4. Tabling of progress/final reports at CC meetings

All Theme Committees tabling a report at the Constitutional Committee should appoint a representative to table and present the report. This will ensure effective representation of the views of the relevant Theme Committee.

Thanking you

H Ebrahim
Executive Director
Constitutional Assembly
