

# **CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 3**

**29 MAY 1995**

**CORE GROUP MEETING:**

24/3/3/2

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CHAIRPERSON: (inaudible) ... before you two sets of minutes can we just quickly go through those please. The first one is numbered CG3/25 that's the minutes of 15th of May. If you will just quickly have a look at it, page 3.

MS DE LILLE: Chairperson there is just one correction, did we have - I just want - you know the present chairperson de Lille and then if you go to point 1, it says open, the meeting was opened by Doctor King, did we swop chairs there?

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UNKNOWN: Yes.

MS DE LILLE: We did, thank you.

CHAIRPERSON: Oh!

UNKNOWN: You weren't - you weren't back yet, you were a few minutes late I think (inaudible) ...

MS DE LILLE: Okay.

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CHAIRPERSON: Are you happy with it the way it is or do we have to change

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it, is it fine?

MS DE LILLE: I think it (inaudible) ...

CHAIRPERSON: Okay, and then on page 4 any problem there? Page 5 - page 6. Fine any matters arising from - from these minutes? I would just like to point 3.5 on page 3 at the very bottom. I have asked Doctor Alant and I enquired about this again on Thursday or whenever and he said that he had actually asked the Department and they were preparing a document according to what Mr Andrew had asked for and it was taking a little bit of time because we are really asking you know for the correct detail, and not just a guesstimate. But hopefully we will be able to get that during this week.

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UNKNOWN: Okay I think it's well in the end we following a fair circuities route, we hope Doctor Alant might have it, but I mean if he is helping that's fine. But I think it is important we get it this week, because I mean it's a hell of a lot of work to be done on that before we can start making submissions. Because we first have to within our organisations prepare drafts and then start circulating them and so on.

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So if it this week that's fine, otherwise if somebody can ...

**CHAIRPERSON:** Okay I shall chase him again, but normal he is ...

**UNKNOWN:** Yes, well obviously it's not just in his hands.

**CHAIRPERSON:** Ja, it's unfortunately not in his hands only.

**UNKNOWN:** But I mean maybe - you know if there is any delays then we need the CA to chase somebody as suppose to necessary  
Doctor Alant having to personally ...

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**CHAIRPERSON:** Okay.

**UNKNOWN:** With - one - one other matter that we did not report on that the FFC's chairperson was invited or his representative having as the respondent, that is for the financial and fiscal relations and have asked them to give us details as well on taxes and the (inaudible) ... that we asked for.

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**CHAIRPERSON:** Then I don't have it with me, but then we received a letter - oh! yes sorry Ms De Lille.

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MS DE LILLE:

Also under matters arising chairperson under point 4, the meeting asked the Administration to consult with the directorate and a report back to the ad hoc advisors and the Core Group on the relationship.

I just want to find out whether we can finalise that one?

UNKNOWN:

Can I respond to that madame Chair, the matter was raised with the - with the executive director and notice to that effect was circulated amongst the Core Group members. I don't know whether you - you received those.

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CHAIRPERSON:

Actually that was what I was going to - to speak on Ms De Lille, that is that I received mine - I read it during the weekend in which the Administration actually suggested that the report on local Government, that we actually use the ad hoc committee instead of the technical advisors to help us to prepared that report.

Which is something that I myself questioned because I think we've not got to this stage where we and the technical committee are in agreement as to how we want the report

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and we have an understanding and now we have to start again with totally - a totally new group. That's just my own position, that is how I felt about it, but obviously that's something which we have to discuss here and the decision has to be taken. But that was a suggestion that came from the - from Administration. But we not - we not to use both.

MS DE LILLE:

But any motivation from the Administration for what are there reasons so that we can consider that?

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UNKNOWN:

Okay briefly what - what happened is when the ad hoc committee was brought on board it was mainly because it was of the understanding that they had - there are people who have specific skills you know in the area of local Government and because of that you know we needed extra help if it was not the case we would have - then had to use the technical advisors that we had acquired.

So because they have you know these specific skills you know it was - it was thought it necessary to involve them and/or use them to the full that is, there should evaluate submissions from parties. They should produce the report

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as well.

CHAIRPERSON:

I have a problem with that in the sense that it's not a question of evaluating the parties reports. That has to be done by the CC. It's a question here of putting the reports together and getting one report from the various submissions.

They can't make an input, they can't change what any specific party has produced. They simply have to try and get a document together where - where areas of consensus and areas of contention are actually raised. Ms De Lille.

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MS DE LILLE:

Well my problem I have Chairperson is the motivation actually implies that the technical advisors are not skilled enough to do the report. You know and that, that is my concern you know.

I think it would - that's why we've asked in the beginning what is the relationship going to be between the ad hoc and the technical advisors. Because that is really the implication of what the Administration is saying. But then also the cost

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factor what is going to happen, who's going - are we going to pay both, both teams for assisting us with producing the report, how is it going to work.

CHAIRPERSON: Can I - can I make a suggestion, Mr Gordhan would you.

MR GORDHAN: Ja Chair, I think we should leave our options open at this stage. It's not a question of the one being more competent than the other, local Government is a specialised area. And I think those individuals that are on that ad hoc team were brought on because of their familiarity with that particular area.

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Now that workshop that was held, perhaps what we should do, I might be off the mark so please correct me, is to ask that ad hoc committee to prepare the documentation on that workshop in a comprehensive as possible point one.

Point two when the submissions of the parties are in, let us revisit this again. What we might want to do is to go through it, go through a two stage process because of the specialised area it is, we might want the ad hoc committee

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to do the first level of processing.

That when it comes to preparing the kind of report that for example Professor Basson just prepared now, the technical experts might be a better place to do it. Because they are more familiar with the kind of techniques that we have in mind.

So I think that's - it is not that each one needs to repeat what the other one is doing, (inaudible) ... if we just demarcate it carefully we can draw on the strengths of the speciality on the one hand and then draw on the technical experts in order to facilitate this question here on the other hand.

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So I think we might be able to bridge it without duplicating.

**CHAIRPERSON:**

That is a suggestion on that side, it's just a question of I remember correctly what I read was that we could only use one group. we cannot use both groups.

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**MR GORDHAN:**

Ja, as long as we don't overlap. (inaudible) ... that if we organise it properly there is no overlap. In other words

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both (inaudible) ... can do the same thing.

CHAIRPERSON: Then what exactly do you suggest that the ad hoc committee does.

MR GORDHAN: Ad hoc, the ad hoc group prepares the first substantial written report, both on the workshop and on the parties submissions. The technical advisors do the analysis in the columnar form.

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CHAIRPERSON: After, so in other words do they have to wait for the report from the ad hoc committee before they can do theirs.

MR GORDHAN: Ja - ja that's right ja.

UNKNOWN: (inaudible) ...

MR GORDHAN: Because then they not - they don't have to do the first analytical bit in terms of the parties and the people who have the more specialised knowledge in that regard and I am sure Professor Basson will agree with me in that regard as well. Will be better placed to actually systematise the

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first report and they will be a better place to give us the columnar report.

CHAIRPERSON: Okay there is a suggestion there, Ms De Lille.

MS DE LILLE: Yes I understand that Chairperson but also you know the basis of this all is that there - there - whether we conform with the Constitutional principles or not. When - and even when the initial draft is put together, so what we are basically saying is that we will give the ad hoc group our reports, they will go through the reports, put them together, they will not go into what is contentious and non-contentious, they will not also explain to us which submissions does not conform to the Constitutional principles and then we give it over to the technical group.

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CHAIRPERSON: I am quite willing to fall in with that, I personally just see that, that's a very lengthy - lengthy procedure because I think that eventually what will happen is that the technical group will have to go back to the original submissions in any case to make quite sure that nothing has been left out.

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So I really see that as a double - double thing. But I am -

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as I say I am quite willing to accept that if you want us to do it that way, I will fall in with that, my own personal feeling is that we - it's an expensive venture then and it's time wise it's going to take more time than we realise.

UNKNOWN:

Ja because we must cut down on the expenses and the (inaudible) ... where ever it's possible Chair. But I think there are new answers in local Government that (inaudible) ... and that cannot be brought on that (inaudible) ...

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And of course the Constitutional (inaudible) ... which is the more (inaudible) ... So that's - and I don't think we want to miss that out, it's an very important area.

CHAIRPERSON:

I don't want to differ all the time, can I make another suggestion just to - to - I am just throwing it in for consideration. What about the technical committee first doing the work they do and then giving it to the ad hoc committee and saying but you've left out this or nobody has addressed this, that or the other.

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UNKNOWN:

No you can't do that, because ...

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CHAIRPERSON: Not.

UNKNOWN: No.

CHAIRPERSON: Okay.

UNKNOWN: (inaudible) ...

MR GORDHAN: Can I suggest that we take on board the recommendation as made that Professor has a chat with for example Mr Borraigne or someone in that group. And they then come back to us with a recommendation, which minimises time and financial expenses.

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CHAIRPERSON: Okay I just have to warn you at this stage that as far as the National Party is concerned, it will take each time - at least a week for us to accept the ad hoc committees report before we would be able to say yes it can go on to the technical committee, because of the way we work.

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MR GORDHAN: But alternatively we might want to package it all together and then (inaudible) ...

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But I think we can come to that - let them have a discussion and come back to us with a recommendations.

CHAIRPERSON:

Okay, we then - you Sandra you have it exactly the way - so it first goes to the ad hoc committee and then it goes to the technical committee.

Anything else arising from the minutes of the 17th of May?

UNKNOWN:

We (inaudible) ... Professor (inaudible) ...

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UNKNOWN:

Chairperson can I give a report on that. What happened was that meetings were scheduled for the whole day or virtually the whole day. The first one was to be with the IFP in the Good Hope Centre at a particular time, everybody arrived on time, but unfortunately the environment lobby or group or in their - they ran three quarters of an hour late, which put everything late and the interview that Professor (inaudible) ... had with Radio 702 was actually a scheduled meeting which wasn't clarified in the first instance.

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So that's why we missed out.

UNKNOWN:

Madame Chair - madame Chair, I just want to talk about this you know we sat there like fools, members of Parliament while this great Professor was late having some publicity in South Africa over the radio.

I want to have as not the objection that a full Parliamentary group there was a very large delegation from the ANC available waiting there from twelve o'clock I think the set time was. While this Professor just didn't pitch up and I think we must express this in public and perhaps have the Canadian Embassy known because I personally felt that members of the National Parliament of this country, they were affronted by the person not pitching up for a date and giving through the message that he is busy with Radio interviews.

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Because that could have been cut short, if he had sufficient respect for the National Parliament of this country.

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CHAIRPERSON:

I think we take note of that please and if we have that

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minuted in the minutes as well, thank you.

UNKNOWN: Yes I - I presume it's going into the minute and maybe a letter to the Canadian, I don't think making a public statement is really particularly useful.

UNKNOWN: Just (inaudible) ...

CHAIRPERSON: Thank you, and then we have here also with us an that's on our agenda so shall we leave it and that is the input by the Commission for Provincial Government. Shall we discuss it now or shall we leave it until afterwards, shall we do it ...

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UNKNOWN: Madam Chair if I may come in on this, the only discussion which is necessary is that I think the Provincial commission and Provincial Government they are worried that we don't take note of their submissions which is not true of course.

Now perhaps if you will allow that, we could just have a small talk on that, because what is really said in the Constitution is not that the Provincial commission must make submissions to the CA, but that it must

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advise the Constitutional Assembly on the development of a Provincial dispensation.

So people even read the clause that it has all to do with the present establishment of the present Provincial Governments under the Interim Constitution and not with the new Constitution but there is doubt about the interpretation of that.

I would suggest that the Provincial commissions submissions is not submissions but it's advised to the Constitutional Assembly they direct it to the CA Administration itself and from there on we receive it like other submissions. I don't think it needs any special treatment except that we could note it in our parties submissions when we submit it.

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But it is not the same as parties submissions, it's an advice to the Constitutional Assembly and we take that into account and it's part of the other submissions.

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**CHAIRPERSON:**

I personally think - ja I think that, that is more or less how we already have it in our minutes of the 17th on - I think

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it's 5.1.3 where we've already said that parties will take note of and then bring it into their submissions obviously as it fits into their policy.

We had never actually - well provided to bring that in, but I mean that - at this stage I actually just wanted to know shall we discuss it now as a matter arising from the minutes or shall we put it later on in the agenda, but seeing that we have started we might as well just carry on with it instead of starting again. mr Andrew.

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MR ANDREW:

Madam Chair I concur with Doctor Du Toit has said any issue that arises is the relationships - the time table, because if you going to take it into account, you obviously have to have it before you make your own submissions.

Now reading the minute of this meeting, I wasn't at the meeting, I think the financial and fiscal matters one has now arrived amongst the words distributed the end of last week.

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The one's on local Government, inter Government relations I don't think I've seen yet, you know we get so much paper

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one can always miss something, but I don't think they have arrived yet.

As far as I am aware this Wednesday the parties are required to make their submissions on inter Governmental relations. And while I agree with Doctor Du Toit the status of the GPG submissions are not the same as political parties.

But clearly they have particular hands on experience over the last year or so, and I think it would be unfortunate if the parties attempt to make their submissions before they've actually got the benefit of whatever comments they may wish to make.

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Now in the end some parties may want to take a lot of them on board and other parties may want to take none of it on board but that's - everyone would like to actually see what have they got to say. So it's only in respect of the impact on the time table that I think we need - well from my perspective is what I would - whatever else we do that we actually should be talking about how we going to fit it in.

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**CHAIRPERSON:** I am just - shouldn't we just give the gentleman from the CPG a few minutes just to quickly give their position and how they feel about it and what suggestions they would like to come up with, please.

**MR VERMAAK:** Thank you Chairperson, in terms of Section 161 of the Interim Constitution the commission is obliged to make recommendations to the Constitutional Assembly in regard to provincial systems of Government including local Government.

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The Constitutional Assembly is also in terms of that Section obliged to consider the submissions or the recommendations of the commission and the comments thereof on the Provincial Governments. So the commission must disagree with any point of view that says that the - it's recommendation should be considered as other submissions.

There is a special obligation on the Constitutional Assembly to consider those recommendations. Now the commission isn't worried that the committee is not considering that -

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those recommendations. We are trying to facilitate the process and advise the committee also in regard to that.

If it is not apparent during the process of this committee and also flowing from here into the Constitutional committee and the Constitutional Assembly that the commissions recommendations and the comments of the Provinces there on have been actively considered. It may find itself in a stage of the process where any party may go to the Constitutional court and say that these matters have not been considered in terms of the Constitution.

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So we just advising that the committee should be carefully in considering those matters. I am not trying to make a comparison, but I would like to draw your attention to the fact that Theme Committee 2 is now including in it's document which goes to the Constitutional Assembly the preliminary recommendations of the commission as well and this committee might very well consider the proceedings, procedures that is being followed in that committee.

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Just in regard to Mr Andrew's concern, the paper on local

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Government had been submitted to the executive director this morning, so it will be available I suppose in the course of the day.

**MR ANDREW:** May I just ask - madame Chair just immediate - just an immediate question, do you have any idea - what's the gentleman's name - Mr Vermaak sorry do you have any idea when the one on inter Governmental relation is likely to be coming.

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**MR VERMAAK:** It will probably be ready by the end of next week.

**MR ANDREW:** End of next week, thank you Chair.

**CHAIRPERSON:** Mr Gordhan.

**MR GORDHAN:** Chair ja I think this is a matter that we'll have to - as a CA not only as a Theme Committee look at between now and May next year, because I don't think there is anything in the Constitution which says Theme Committees must take account of - otherwise there will be a problem.

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The CA has many structures, Theme Committee as being one, the CC itself, the management committee, ultimately the CA itself. We don't know what kind of structures we going to set up after June, whether Theme Committees will continue, whether they won't, whether sub committees of the CC will begin to emerge. So I think all we need to do is one take note of these reports. Two refer to them in party submissions where that is appropriate. Three I think it's a good idea to have them - to have CPD reports appended to reports that we sent to the CC.

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So that we actually firstly acknowledging them but we also asking the CC to take note of the fact that these reports have in fact been received. But finally at the CC level, the CPG will have to work out some relationship about what taking note actually means. And I think as we get closer to the political negotiations then the input of the CPG will become more relevant in terms of whether it offers viable options or not, or how those can be intergraded with the others.

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So I - that's how I see the process. In other words nothing

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we do now necessarily actually compromises the CPG's input, provided that we pass on their material to the CC as well.

**CHAIRPERSON:**

I agree with you, that was to be my feeling also that I - I always understood that the CPG would be actually feeding the information to the CC and the CA. I am just wondering at this stage, wouldn't it be an idea to look at these submissions coming from the CPG and asking the technical committee whether they don't want to just have a look at it and compare it to the report as we - it has been compiled by our Theme Committee.

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And perhaps just take out a few things from there and say these - on these things there are agreement but here are some ideas which has not been taken on board at all, which perhaps one should ...

**UNKNOWN:**

(inaudible) ...

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**CHAIRPERSON:**

Pardon?

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DR DU TOIT: (inaudible) ... submission on that report?

CHAIRPERSON: Well one could always sent it in a little bit later you know if it's a couple of days later do you think it would make that much difference. It depends on well the problem with the - with the inter Governmental relations will be a problem because that has to be in the day after tomorrow.

DR DU TOIT: Yes you see we talked about it in the previous Core Group as well that we sit with the Constitutional requirement, and it's 161 just refers actually to 164(2) where the word recommend is described in terms of advice.

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Now the point is it is - it is really wrong as Mr Andrew has said, that we complete our work on a block before the CPG has been able to submit. Because it's all very well to say that in the end there things will be considered in the Constitutional committee. But I think it's wrong, for example on these inter Governmental relations. I think we must try and submit on Thursday that we not - don't get behind.

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But on the other hand it would be very well if we could just have a glimpse of their report and that the parties could finish off their submissions after that. So the same goes then for your submission on - or your idea on this one. Hold it back a bit I don't know how much pressure we get from the CA Administration now to get this done with until we've had the opportunity to go through the CPG's documentation and the experts could come back to us next Monday.

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I would support postponing the process now, but then also on inter Governmental affairs that we first get their report in before finalising our submissions.

UNKNOWN:

From the administration unfortunately that would mean you know that members will go the managing committee and ask for - or request you know more time to be able to do justice with the reports.

Because as it stands we don't have time basically we - we won't be able to produce a report by the end of June, that is on local Government and inter Governmental relations.

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So I think to - you know the way forward is you know, it is - we need to take the matter up with the management committee and advise them of our motivations for us and for or requesting further time to look into this.

**DR DU TOIT:**

The problem it was an external factor to this Theme Committee. We're able and ready and willing to submit, but it is the commission for Provincial Government which comes with the Constitutional duty here. So that's external to our control and it must be taken into account.

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**CHAIRPERSON:**

Can I then - am I on?

**UNKNOWN:**

Let's have another route Chairperson and that - if I may speak and that is that let the parties submit their schedule, let the CPG come in with this report. It's when their technical experts look at their reports, they look at all of them and they can make comparisons amongst them.

But what it would mean is that the parties don't take account of the CPG which I don't think is necessarily a good or bad thing. But I mean if that's the fact of life, we'll just

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have to take account of it. It's important that the Theme Committee finally gets account of the CPG's contribution. So that - that's another (inaudible) ...

**CHAIRPERSON:** But then that would - that would affect - how would that affect our report that we've just completed today?

**UNKNOWN:** Pardon - sorry?

**CHAIRPERSON:** How would that affect our report that we've just completed today? 10

**UNKNOWN:** I mean we just have to - no ... (intervention)

**CHAIRPERSON:** Are we only going to do it on local Government and on - and on inter Governmental relationship.

**UNKNOWN:** Inter Governmental relationship - I am not sure where is there a report in terms of levels of relationship between - I mean on the question of competency. 20

**UNKNOWN:** They've done that report already.

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CHAIRPERSON: They've done it yes quite some time ago.

DR DU TOIT: No actually well from my side, we took into account what they've written there. The problem is really the one on inter Governmental relations, there was a big conference as you know, which they held ...

UNKNOWN: Ja, last weekend.

DR DU TOIT: Most of us couldn't listen to all the speeches, the few of us who were there, and there were very few from this Theme Committee there. And I really think we must wait for that report that's crucial point of the whole new Provincial system which is going up to.

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But I personally would not feel at ease having submitted the ANC's one, before reading the one. But it won't - it - I think that doesn't affect the programme for the other submissions, it still go on like that. But we might - the inter Governmental report quicker if we take that into accountable, because things will be more settled between us, I am sure.

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CHAIRPERSON: So are you suggesting that every party will first have to look at it, or - because our submission is in already. And I mean we not going to redo that again. So I - I am not quite sure how we - I am still not sure how we going to handle this, so we now wasting a lot of time.

DR DU TOIT: (inaudible) ... the feeling is no just go on with it now (inaudible) ...

CHAIRPERSON: No ...

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UNKNOWN: Chairperson I must - sorry may I - you know I do think so much of this - you know we are sort of rushing halter shelter to kind of meet certain deadlines which in any event kind of move on all the time. But - and then end up doing everything back to front.

I mean we asked for public submissions, we have - well it wasn't organised by ourselves, but a conference is held - was it co CPG that one - yes the CPG obviously not just for own benefit to hold a conference in which some of the world's inter - you know the world's leading experts on inter

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Government relations are there and delivering papers and things.

The CPG itself has got a year's hands on experience. And we say you know well despite all of that, we will actually all make our submissions before we've got that input and then maybe after the event when we start getting that input we start changing or whatever.

But in practice one knows that once the parties have been through processes, it actually becomes very unlikely that they going to take on board that ideas in any hurry that come from elsewhere.

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And I - you know if - for example on inter Governmental relations, we haven't had any submissions that I am aware of to this Theme Committee which say what's going on at present. People talk of MEC - and Premiers forums and things, I don't know what bodies are currently functioning if any, well you hear these names.

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DR DU TOIT:

(inaudible) ...

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**UNKNOWN:** Well that's the point, but we haven't ever, nobody has ever come and said look this is actually what is currently happening and these are the kind of roles, are there forums between directors general, heads of departments, I don't know, what are they called. What do they do, how do they relate to Min Mec and ...

**CHAIRPERSON:** Okay ...

**UNKNOWN:** So I am just saying you know it's really like - like a scientist saying I am going to draw my conclusions, I've done - there are a whole lot of experiments that have been done, but before the results of the experiments are fed into me, I am actually going to write my paper on what I think the - my conclusions are.

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**CHAIRPERSON:** I am - I am still wondering whether we should do it in such a way because as you have mentioned, a party doesn't easily change their own policy on a - or viewpoints.

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Should we still again just look at this, that we actually treat the CPG report as an extra submission and that the

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technical committee, technical committee actually tries to bring that in as a separate - in other words if we take the report that we have before us, we have before us today.

If we ask the technical committee to have a quick look at that, I am sure it wouldn't take that long and that we could have it by the end of the week. Giving us ideas of agreement and where there are other extra suggestions or where contentious ideas have come from them.

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And that we treat all the others in the same way. It still leaves parties the opportunity to handle those reports from the CPG which come on time. And that we eventually also bring them in at the end.

**MR GORDHAN:**

Chair - I just want to think of something that (inaudible) ... mentioned later, you see on this particular topic I think it's going to be an unfolding thing. So the early submissions of the parties are going to be the really in principle abstract notions of how we see inter Governmental relations.

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The CPG input is going to come. I want to know

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recommend that the Core Group considers having a half a day hearing/workshop/whatever where the practitioners in inter Governmental relations at the moment, actually join us. Now for example how do these Min Mec's actually work, what kind of decisions do they actually take. The IFP's pull out of the IGF for example, I mean what's the difference between a volunteer association as they call him, the IGF.

UNKNOWN: What is the (inaudible) ... between IGF and (inaudible) ...

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UNKNOWN: Well the one is where Premiers attend, the other MEC attend.

UNKNOWN: (inaudible) ...

UNKNOWN: Well that IGF is a Premiers forum, and the Premiers forum is actually the in house Premiers meeting themselves, caucusing for the idea of (inaudible) ...

DR DU TOIT: The big problem is the state it's in.

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MR GORDHAN: So what I am saying - I was about to say comrade Chair is

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that - there is a - there is - these institutions are functioning out there and they've been functioning for something like 6 to 7 months in many instances. And I don't think that we can finalise our recommendations on inter Governmental relations without taking note of the reality, that's unfolding on the ground.

So I think if we take this in stages, let the party submissions come in as in principle abstract thing, let the CPG thing come in, let's have this inter action with the practitioners and then let's firm up our views around this issues. I would recommend that process.

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**CHAIRPERSON:** All right then can we ...

**MR GORDHAN:** So we are taking account of the reality, it might even be interesting to have some of the Premiers come over and tell us how do they see these things. What are their actual experiences on the issues.

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**CHAIRPERSON:** Fine I think that sounds - it seems like ...

**UNKNOWN:** Sorry may I just correct something that you misinterpreted

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me. You know when I said that parties don't easily change their - well I can in affect I suppose only really speak for one party, but my experience of parties don't easy change.

But I think it's far more of a problem of getting parties to ever change their positions after they have committed themselves on paper as oppose to prior to.

Because once they've actually done something and then put it through all their processes, and then put it in, if other evidence comes which makes some of them think they should change their minds, it's often such a hassle now to go back and maybe they think they'll loose face or whatever.

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So my point was more that after you've made your submission, to get parties to change their minds and their positions, is far more difficult than getting it before hand.

So that was you know my - my particular point, that's why I was ...

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CHAIRPERSON:

Now well I - I am tying up to what you've said, because that

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was why I suggest that on the ...

UNKNOWN:

Yes but you were suggesting that even with the evidence you wouldn't change your mind anyway, so it made no difference, you may as well make your submission before you got the evidence. So whereas mine was the opposite, mine was saying let's get the evidence because people may change their mind a bit and then you may be closer if you all have got the same evidence although we obviously draw different things from evidence.

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CHAIRPERSON:

Ja you see our problem only is that the most important parts of our total submission - work programme I would think of Theme Committee 3 we have actually concluded today. So there is no way that we can have any influence from the CPG reports on anybody and that was why I was thinking that we should have some - some how work it in on - because we already have the framework, the lot it is so easy for the - to simply look at the CPG report and work in the - on this specific matter where we say the ANC has this, the NP whatever, at the bottom it could say the CPG on this agrees or has a totally different point of view etcetera.

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And that's how I felt about - can we just then, because you talking and talking and I know everybody is in a hurry, let's just get a few things sorted out and then we can carry on. Can we just get this one then, are you - are you happy that we do that with the CPG report on - on the one that we had with us today?

**UNKNOWN:** Ja.

**CHAIRPERSON:** Mr Gordhan are you happy with it. Ms De Lille? 10

**MS DE LILLE:** Chairperson I think it must optional for parties to decide whether they want to make their report on inter Governmental relations submit that report by Wednesday or if they want to I think the suggestions from Mr Gordhan, it's valuable and that's the route we need to go and then the party can decide whether you want to make your submission for Wednesday or you make your submission later.

**CHAIRPERSON:** No I agree with that, but I am not - I am now speaking on 20  
the one that we had before us today. That I just wanted a decision on that, then we go onto the next one, because we

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now talking across purposes, otherwise we'll never get to the end of this.

First of all I just want to know do you agree that the one that we completed today that is on the powers and ... (intervention)

MS DE LILLE: Yes the competencies.

CHAIRPERSON: Ja, the areas of agreement and contention on legislative and executive competencies. Are you happy that we ask the technical committee that they look at the CPG's input on that, and see whether they can work it into this, are you ...

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DR DU TOIT: No - no I am worried about that.

CHAIRPERSON: And that's on just the one report only and let's get that, because that is now something of the past, there is no way that any party can now change and come back again.

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DR DU TOIT: Now you see madame Chair we took that parts of the CPG's submissions into account when we submitted on that, it was

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available. But that's the ANC. But then the relevant parts of the documentation of the CPG could just be attached to that, I don't think we should go and change in the block again, that will double create a problem for me, because then it's the question of the balance again, then I want to look at it again.

But they could just attach as an annexure the CPG's submission and then it's okay, no problem with that.

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UNKNOWN: Mr Chairman (inaudible) ... at the CC level.

CHAIRPERSON: Okay so in other words Mr Gordhan you are then retracting what you agreed too originally.

MR GORDHAN: Now we debating the things yes, so let's not (inaudible) ... each other.

CHAIRPERSON: No - no I just wanted to because I put forward that proposal, you were happy with that and then - so okay then we get back to scratch.

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MR GORDHAN:

There is various ways of doing it Chairperson, let's just clarify it. The one way is that you go through each block again and add to all the five or six parties there, say CPG says this.

The other way is that right at the end we can have a summary of the CPG's proposals which says that if you take all these blocks this is how there proposals all came out. That's one option.

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The third option is Professor Du Toit's option where you just take their document and you appendix it at the end. I then even (inaudible) ... him to accept the second option which is a sort of - so that we don't go and ask Professor Du Toit now to - Professor Basson to (inaudible) ... go through every one of the columns.

CHAIRPERSON:

Okay.

MR GORDHAN:

What they do is take the CPG proposals, summarise it in that same columbian form but as an appendix to the report and that's the short cut I think that we can all live with.

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CHAIRPERSON: All right are you happy with that Ms De Lille, Mr Andrew are you happy with that. Okay, then that one is completed let's ...

MR ANDREW: Yes I am interested in that Doctor Du Toit he says he took it into account, I seem to remember it came after the closing date, but don't worry (inaudible) ...

DR DU TOIT: No I had some documentation which I read from it - no for sure I did - last week ...

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CHAIRPERSON: Okay shall we now not waste time on that, let's just carry on with the next thing. We now have on Wednesday we - the inter Governmental relations. Now there - we - our reports have to be in on Wednesday, the report from the CPG will only be available at the end of next week.

UNKNOWN: (inaudible) ...

CHAIRPERSON: At the earliest.

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UNKNOWN: At the earliest.

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CHAIRPERSON: Okay so what do you suggest we do then, and that's holding us back tremendously.

MR GORDHAN: I would - I am not sure what's our programme for next Monday, but we would be meeting in the normal (inaudible) ... event, is there a workshop.

CHAIRPERSON: Yes.

MR GORDHAN: Is there some chance of having a half a day workshop during the course of the week where we invite - where we can discuss who we invite, but we invite the practitioners, but fairly early so that we can actually hear them. 10

CHAIRPERSON: I suspect that the earliest would be on the 19th - sorry the 5th - 5 plus 12 - the 12th, that's the earliest that we would be able to do it.

MR GORDHAN: But is there no chance of having a mid week session.

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CHAIRPERSON: That has been stopped completely.

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MR GORDHAN: With the permission of Parliament?

UNKNOWN: The only day we could try and negotiate for is Friday but otherwise it has to be Monday.

MR GORDHAN: I thought you people in Parliament you are co operating with each other, what is this war going on now.

CHAIRPERSON: That has - they have actually become very serious about that, but Tuesdays, Wednesdays and Thursdays are not to be touched. So we really are and we already have our workshop for Monday which we simply cannot move, so the first time that we can get together is on Monday, today - two weeks. 10

DR DU TOIT: Madame Chair you know I've got a lot of the papers which I got from individuals on the -when the conference of the CPG. I thought I would wait until I got the composite report from them. But it's possible to go through those things and at least get something of it, I've got other things like notes of (inaudible) ... Botha's speech, his handwritten notes and things like that in which he also might - the 20

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analysis of all these inter Governmental relations.

But then I need extra time if - if - if Patricia de Lille's idea of somewhere - submissions somewhere in next week will be acceptable then I'll accept it. Because then I can come on top of what was said at that CPG's conference without their report even. But then not Wednesday.

CHAIRPERSON:

I don't know where we going to now, because you know we just set a time table recently and we going to now fall behind on that again. I do realise that we want to have the best report, and I am in your hands, you've got to come up with more suggestions on that then.

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It's still if - if you are going to work that in into the ANC's report it still leaves the rest of the parties in a difficult situation because as I say our report have already gone in, so shouldn't we again treat the CPG report which comes only after next Friday or even later than that, as then a separate report in the similar vein to the one that we've discussed now already. The one on the legislative and executive competencies, would that be the way to do it and

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at least the - the local Government with their local Government paper it would be easier for us to handle that in - within the party situation.

UNKNOWN: (inaudible) ... as far as the CPG's concern, my main concern is how to (inaudible) ... practitioners in before we (inaudible) ... and it's rather (inaudible) ...

CHAIRPERSON: Oh! please - please come up with it.

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UNKNOWN: We have a financial technical workshop next Monday.

CHAIRPERSON: Monday.

UNKNOWN: Monday, for (inaudible) ... hours, what's the possibility that for the rest - for another three hours thereafter appropriate situations that we actually have this workshop (inaudible) ...

CHAIRPERSON: That's Monday morning then, Sandra would be able to find a venue.

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MS HAYDON: Sorry I was reading it, what date.

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CHAIRPERSON: Next Monday for the morning, the workshop.

MS HAYDON: Well we can try it, but ...

UNKNOWN: (inaudible) ... or something like that.

MS HAYDON: Ja we can try and find you a venue.

CHAIRPERSON: Shouldn't we make it nine and twelve so just one has a full  
two hour break before you go into another three hour session. 10

UNKNOWN: Ja (inaudible) ...

UNKNOWN: Ja I've got a problem because I will have Theme Committee  
6 in the morning which I - well 6.2 to be precise, which is  
getting quite hot.

CHAIRPERSON: Okay the other question is will - do you think that the  
Premiers or the MEC's would have - would be able within 20  
such a short period of time to fit it into their programme for  
us to still invite them.

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UNKNOWN: (inaudible) ... that's up to them to find the time, plus I think Mr Meyer's department has people who specialises in this area, who will bring their practical knowledge on board (inaudible) ...

CHAIRPERSON: (inaudible) ... see whether we can make any contact with the MEC's the Premiers, I think probably we will have to start with the Premier and then advise them and ask them either to - either come themselves or send and MEC.

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And at the same time to Mr Meyer's department and find out whether there are any - or there is any person there or persons who may be able to contribute and that is then from nine to twelve next Monday morning.

Are you happy with that?

UNKNOWN: Well I have indicated I am almost certainly unable to attend.

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CHAIRPERSON: You've mentioned that you have a problem yes, fine now the dates as far as the submissions are concerned. What

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date do we now - are we going to put down now for the -for  
the ...

DR DU TOIT: I'll tell you what ...

CHAIRPERSON: Well Monday when we only listening to those people on  
Monday. I mean that defeats the purpose.

DR DU TOIT: The following Wednesday I think then - ja.

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CHAIRPERSON: The 7th?

DR DU TOIT: Yes I think that will give us enough time to - because these  
officials from the Department they will be able to do what  
Dr Johnson did from Canada here. You remember how he  
gave that list of all the conferences in Canada, now actually  
we know more about Canada than we know about South  
Africa.

But there will be officials available in Constitutional affairs,  
who would at least be able to do that even - even if we don't  
get the Premiers here which I doubt we going to get here

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now.

But that will give us enough time, just to see did we make a fundamental flor somewhere in our things. I am very bad politician, I make faults and I am aware I can make faults not like politicians who think they can't make faults and we can make faults here.

**CHAIRPERSON:** You mean mistakes, we all - we all human beings.

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**UNKNOWN:** Is that your special field.

**CHAIRPERSON:** And I don't think any of us think that we are above that at all ...

**UNKNOWN:** Is that your special field?

**CHAIRPERSON:** Fine so have we come, have we got to an agreement on that now?

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**DR DU TOIT:** Yes.

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CHAIRPERSON: Fine, can we go on then to our minutes of the 22nd of May, let's hope we can move that one more quickly.

UNKNOWN: (inaudible) ...

CHAIRPERSON: First of all just can we have a look at page 2 there, page 3 - no mistakes ...

UNKNOWN: There is a (inaudible) ... there that's wrongly spelled.

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CHAIRPERSON: Which one is that.

UNKNOWN: (inaudible) ...

CHAIRPERSON: Can I have someone move that we accept this - these minutes - did we move the first - the previous minutes.

UNKNOWN: I moved.

CHAIRPERSON: Did you - oh! okay and you move now again.

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UNKNOWN: I second it.

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CHAIRPERSON: Okay fine, any - any matters arising from these minutes?

UNKNOWN: (inaudible) ...

CHAIRPERSON: I think we've just about met them all, we've already discussed them.

UNKNOWN: I presume I mean we keep saying in our minutes the committee express to concern that realistically it will be (inaudible) ... if the Theme Committee meet the June deadline, we keep saying it. I don't know if we going to be saying that in September as well ...

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CHAIRPERSON: Someone will - will take of note it, that's what we hoping.

UNKNOWN: Yes.

CHAIRPERSON: Higher up in ...

UNKNOWN: Well I mean if we do think it's difficult, well if we think it's impractical, then we should surely be making a specific request as opposed to just week after week saying it's very

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difficult.

**CHAIRPERSON:** Well I think one always sees you know what ever problem one has, you see as a challenge and we see how far we get. We - at the moment our time schedule still allows us to finish in June and I think halfway through June we'll probably know where we stand.

**UNKNOWN:** May I just ask - I'll have to get my diary but there are - we've now put the closing date for inter Governmental relations at the 7th of June, we previously had the 9th of June as the closing date for local Government submissions, is that standing - so having two sets of submissions within two days.

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**CHAIRPERSON:** Yes.

**UNKNOWN:** Okay.

**CHAIRPERSON:** Fine anything under ...

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**DR DU TOIT:** May I say (inaudible) ... while you on the minutes this note

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that point 6 that thing of the public hearings, that must just be carried forward I am just worried that we loose it somewhere in the minutes, the administration must just note and remember that one please.

UNKNOWN: (inaudible) ...

DR DU TOIT: Yes.

CHAIRPERSON: Okay, then we get to 4 on the agenda which we have 10  
actually I think completed.

DR DU TOIT: Completed.

CHAIRPERSON: And then under general anything from the ANC?

DR DU TOIT: No it's accepted the point.

CHAIRPERSON: Ms De Lille, Mr Andrew and the technical advisors,  
(inaudible) ... Mbasu have you anything? 20

MR MXENGE: (inaudible) ... what I need to raise is that I was approached

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by one of the members so called you know enquiring about the public hearing this coming weekend you know to find out whether actually possible that it could be amongst the delegation and I thought I need to - I need to make members aware especially of the Core Group of that, so that if they say she can go, either then I can take the matter up with the administration and find out whether she can actually be one of the delegates, because the Core Group needs to approve you know.

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**UNKNOWN:** No problem.

**CHAIRPERSON:** Okay is there general agreement on that?

**UNKNOWN:** Agreed.

**DR DU TOIT:** Agreed, that's the one where Ken Andrew goes to Northern Transvaal in (inaudible) ...

**MR MXENGE:** The hearing I am talking about is the one which will be held in the World Trade Centre it's on women.

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UNKNOWN: (inaudible) ... just another mistake.

DR DU TOIT: It's another mistake I made ja.

CHAIRPERSON: Thank you very much.

UNKNOWN: (inaudible) ...

DR DU TOIT: Was that the - hell now you tell me.

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**THEME COMMITTEE 3**

**29 MAY 1995**

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