

2/4/6/4/6/21

THEME COMMITTEE	6.2
DATE OF MEETING	01/09/95
NUMBER OF TAPES	2
CONTENT OF ENVELOPE	
1) PRINT-OUT	✓
2) NOTES	✓
3) TAPES	✓
4) COMPUTER DISK	✓



**Theme Committee6.2 - NRF Draft Text
1 September1995
Tape 1**

NOTES

0028:

Who is first speaker? (lady)

0731:

Mr Ken who? Is it Mr Ken Andrew?

1124:

Ms Barbara who?

1268:

700 times because ??? becomes subjective ??? third point.

2030:

Who is speaker?

2095:

the particular ??? from

2453:

Who is speaker? Is it Mr Ken Andrew?

3157:

Who is lady speaker?

3261:

Who is lady speaker? (same as 3157)

Theme Committee 6.2 - NRF Draft Text

1 September 1995

Tape 1

(informal discussion on FFC draft text between ANC and DP meeting scheduled for 8 a.m. on Tuesday 5 September to take discussion further with NP and FF)

Ms ??? ... legislative because that implies executive of thereafter.

Chairperson Now let's go through the includings. Financial and fiscal policies, that's the same. "Equitable financial and fiscal allocations to the national, provincial and local governments from revenue collected at national level." (Repeats) It's exactly the same. "Any form of taxes, levies, imports and surcharges that a provincial government intends to levy." "Taxes, levies, imposts and surcharges that a provincial government intends to levy." It shouldn't be imports. What are imposts? It's a bit like a prize isn't it? But anyway, let's query that word shall we? It's not imports. The original is imposts, but I am not sure whether... I think it means anything that's imposed, any imposition.

(mike off for a while)

I suspect the latter will be the way it goes in the CC. Any charge that a provincial government intends to levy will probably be the way it goes. (d) "The raising of loans by a provincial or local government and the financial norms applicable thereto." Exactly the same. "Criteria for the allocation of financial and fiscal resources and..." It's exactly the same. "Any other matters assigned to the commission by this Constitution or any other law." Exactly the same. "In performing its functions the commission shall take into account" and then it goes (a) "the national interest, economic disparities between the provinces as well

as the population and development needs, administrative responsibilities and other legitimate interests of the provinces and the provisions of this Constitution dealing with the allocation of revenue to the provinces." It says in the Interim Constitution, "inter alia the provisions of Section 155(iv)(b) and any other provision of the Constitution."

Mr Ken???
Andrew

I have a slight problem with this. You see, one of the things they haven't taken out of 155(iv)(b) into here is the efficiency of utilisation of revenue which was one of the factors because on the one hand you've got to go for equalisation of opportunity to meet needs. On the other hand, you've got to sort of reward efficiency and not inefficiency. So, I think it is an important factor. Now the problem is that until you've got the other provisions of the Constitution it may end up being included in there, but so might most of (a). So, my feeling is that in fact until the section on the allocation of... Well, what was the kind of 155 Section is written, it's difficult to be sure what exactly one wants in here. Because one of the problems, for example, of what they've taken in (a) in this formulation is that a lot of those things are already in one 155(iv)(b) and it's tended to say they have got predominance over other aspects in the Constitution so I think in the end one is going to have to look at this in the context of what's in the other sections and say: Right, the balance and the mix is right. Or not. But the particular one that they left out in (a) is the efficiency of the utilisation of revenue, which I consider quite an important element in evaluation.

Chairperson

So it's lacking the criterion of efficiency. Barbara?

Hogan
Ms Barbara ???

I have listened to what Ken is saying, but I also think that we have to look at the poor FFC. I do agree that you need somewhere an efficiency criterion. I am not sure that we want to include it under the FFC because if you start including that, the FFC then has to go on a further task of performance evaluation, you know, setting up the whole process, keep performance indicators, the whole lot. And its job in determining revenue sharing then becomes bogged down in enormous arguments about how can you say that so-and-so is less efficient than that, whatever. And I think it just makes that job 700 times... because ??? subjective ??? third point. Much, much more difficult. You know, what the FFC's saying is that using too many indices for revenue sharing... If you use too much, you finally reach a point where you cannot make a decision because there are countering arguments and you can't do a crisp formulation.

Andrew
Mr Ken ???

I understand. I think in practice there are going to be quite a lot of value judgements involved willy nilly, certainly on the fringes, in the grey areas. What I have in mind - and again it depends on how we end up in the other section... You see, I think that if your allocations from the financial and fiscal commission end up being predominantly conditional then you have actually almost defeated the purpose of having provincial governments and legislation and so on, which means the way I see that they should calculate things is... You know, in a thing like schooling, right, you do the number of population, the average income levels of the families, the parents of the children, the backlogs. You know, you do all those kind of absolutely rational sums and you say: Okay, therefore to be able to provide a minimum norm or standard of free and

compulsory education up to the age of X etc., you must get so much and you do your calculations. Now, having done all those, I would see at the end of the day, you do a calculation and you say, right, and you do one for schools, health, roads, housing, which are probably, say, the big four. You have then probably accounted for 95% of things. Having done that, you then say: Okay, Province X, you are entitled to R10 billion to cover those needs. Here's your R10 billion. But you don't actually say: You must have... Compulsory, you must do this and this. Now, a particular province may say: Look, in our view, the way we are going to get jobs in this province is to have better roads and better tourism therefore we are not actually going to spend quite as much on education, we are going to spend more on roads. Now this is where I talk about this efficiency of utilisation. Then, when they come the next year, and they do the calculation, they should actually then say that we gave them enough money to build the schools, but they've chosen to use it for some other purpose. They cannot now say that they have a basic need, they haven't got enough school buildings. They've actually had the money for that. So, it's also in that area. It's not simply a kind of work study, you know, efficiency thing, although I think there could be an element of that, but I think you're getting into more sophisticated... Looking 20 years down the track, if you get more sophisticated auditing kind of measures and so on. But it's also that other thing: that if you choose not to spend the money in a particular area. Because otherwise, you see, what would be in the provinces' medium term interest would be to overspend in certain areas compared with the minimum norms and say: Let's get our clinics and hospitals better than what is required, but we'll keep on

getting extra money for our schools because our schools will continue to lag or vise versa, or roads, or housing, whichever way. So, I think it is in that sense that, that kind of measure has to come into being.

Chairperson

I wonder, I mean I think this is something we will sort out on Tuesday. I mean the point is that either it goes in the footnote or we agree it goes in the substance of the clause, but, you know, I mean, Ken has raised the point, we've got to put it in. It's either a matter which you put in the footnote or here.

Andrew
Mr Ken ???

I think the particular ??? from my point of view really is to put a, like under the 10, to say "in the DP's opinion this clause cannot be agreed or finalised until the section on allocation of financial things is completed". Because that, in practice... It's got to, in the end, match up with that. And to have, you know, a kind of prolonged discussion on ...

(mike off for a spell)

Chairperson

Let's move on. Appointment, qualifications, tenure and dismissal of members. That's all in the footnote. I think there is a little problem with the footnote. I want to draw attention to it. And that is the suggestion that it goes in the omnibus clause. I've raised this in the CC subcommittee and I think that there is an agreement that the FFC will not be in that omnibus section and I think that there is quite a good reason and that is that there is a requirement... I think there are several good reasons. One of them is, I think, that it's not the same as these other monetary institutions. But secondly, there is a requirement about provincial representation on the FFC, which is not applicable to the auditor general and all the other kinds of, you know...

Mr ~~Ken??~~ ^{Andrew}

I don't know if you were at the subcommittee in the latter part of Monday or at Monday's subcommittee. Ja. My impression in Cyril's summing up, towards the end, was that he's more or less saying he thinks the omnibus clause has bitten the dust because even the ones we thought one could group, you know. Because I think people took on board your logic in terms of, you know, auditor general, public protector, being of a certain character, you know, the policemen ones and the arms of government ones. But even when one got into either of the categories, there tended to be such differences and what I think, if I understood Cyril correctly, the view now is to do each of them in their own right and then sort of look at a comparison and say: Right, can one combine any of these or not. Rather than try and start with a combined... and squeeze the others to kind of fit into what you've moulded. That's my impression.

Chairperson

OK. Well then that just reinforces the case. Certainly that this FFC would not be covered by the omnibus. I think the issue is we're not supposed to negotiate this, you know, that there is no way of reacting to the proposals, but, I mean, our proposal is that essentially the representation by the provinces is on the election, is by the process of selecting the members of the FFC and it's not that there are representatives, mandated representatives of the provinces on the FFC. The FFC then becomes an expert independent body. And that many of the details of the chair and whatever, whatever are appropriate in legislation. Now that's our proposal and there are other proposals. Some of them I think are basically saying that they agree with the current provision, but I think we have to just record those matters. But I mean the important thing that distinguishes

this, which I don't think they've picked up here, is that there is the requirement... Oh, they have it right at the end. Provincial representation, but they don't see what that means in terms of the omnibus. If the omnibus is biting the dust, in any case they are going to have to reformulate a whole lot of the function of that new development. OK. So, we'll have to revisit that on Tuesday. On page 5, (iv) "the commission shall present regular reports to both parliament and provincial legislatures as may be prescribed by law." I don't know what this paragraph... probably something... Ja, it parallels 2082, I guess. Reports by the commission shall be tabled in parliament, provided that the commission shall report to parliament on its activities at least once a year. I think that's covered. And then other provisions, it just notes there all sorts of different views about whether these things should go in the Constitution or not. I think that's, as far as I can tell, footnote 13 is basically covering most of it, read together with the table. Are those the points then? OK. Well let's try and meet then. And let's try and meet bearing in mind the shortage of time, so I think we can do it much more quickly. I actually think we can finish it on Tuesday morning at 8 o'clock. So, let's all be here. OK. We've noted your points. We can represent the DP's view.

Ms ???

...one of the people on the FFC. There's a clause somewhere, I haven't had time to look for it, where it says the FFC's got to do something "in consultation with the public service commission". And they have been asking that, that be changed to "after consultation with" because they are saying that their experience is that they are just not getting anything. You know anywhere where that relates to? Is it in the fiscal relations, inter-governmental

fiscal relations?

Chairperson Must be with their appointments and things of that sort. I mean, we could look it up.

Ms ??? Is it not with the appointments or anything like that?

Chairperson Well it may be. I have just given the thing away. We could look that up. But I mean in actual fact there's no...

(mike off)

(end of tape 1)

Theme Committee 6.2 - NRF Draft text
1 September 1995
Tape 1

NOTES

Same lady speaker throughout.

0835:

Who is speaker?

1275:

Who is speaker (same as 0835)?

2136:

Who is speaker?

2398:

Who is speaker?

3652:

Who is speaker?

3904:

the other ??? of the autonomy

4352:

Who is lady speaker?

4359:

that ??? has a point (name sounds like Jutas, Tutas)

4536:

Who is lady speaker?

4641:

Who is lady speaker?

Ask ??? is it

4892:

Who is NP speaker?

5043:

Who is lady speaker?

6504:

Same lady speaker as before.

Theme Committee 6.2 - NRF Draft Text

1 September 1995

Discussion on draft text of NRF and informal on FFC 1.9.1995. *Tape 2*

Chairperson ...and get this, our last task as a subcommittee, dealt with, unless anything is referred to us again. But, OK, let's start with those minutes. The ones of 2nd August. Are there any points here? 2 to 4. Any corrections? I'll just sign my copy and give it to you. OK. The next one is pages 5 to 8, minutes of the 3rd August.

(mike off for a spell)

Correct, but... I actually have just started being linked up on the Internet and what I discovered is that the CC stuff is on the Internet, including all our minutes and everything so we just want to make sure that they are correct and when we have signed them, they go on the Internet. So, for the sake of posterity, let's just make sure they are correct. I actually haven't spotted anything myself, but I am just giving you all an opportunity. What about the one that starts on pages 9 and 10, which is the minutes of the 7th of the 8th? We've solved the problem, there are no matters arising, it's just to say that your name hasn't been shoved in where Ken Andrew's name has or should be, something of that sort. That's the sort of thing. OK. Then the next one is the 8th of the 8th, pages 13 to 15. And the last one is 16 to 17, which is 10th of the 8th. It doesn't actually have the chairperson signing. I'll sign it. OK. And then, can you give me another set now? OK. If we've done that we now have to move on to the draft report on the National Revenue Fund, which begins on page 18. I am assuming that everyone has read it. Or do you want me to read the clauses as we go through and let's just discuss them if

there is any problem? Oh, dear, I didn't actually bring my Interim Constitution. I don't know if anybody's got one because we need to compare, I think.

Mr ???

I would like to ask, Mr Chairman, just to save time, it says General financial matters, page 18. And then we get to page 19, for example, point 2, annual budget – as you say, blank, blank, blank, earlier when we discussed it. And you can carry on, there's page 21, number 5, Accountability of public enterprises – blank, blank, blank. I thought, and I just want to ask, that public enterprises is not part and parcel and we must just leave it out. We already made a decision like that. Can you inform me why the legal advisers brought it back? What is the reason for 5 to be back in the Constitution, because 5 was never in the Constitution. 5 might never be in the Constitution, according to our previous discussions and decisions. If I am wrong, please help me. But before we start going through them, just bear with me for a minute that we just go through the general papers as they are put to us and I don't know why they put 5 in again on the top of page 21. Can you explain that to me, please?

Chairperson

Ja, I think I can and that is that we basically all decided that there would not be anything on public enterprises, with the exception of, as it says in the footnote, "a short clause saying that any enterprise in which public money is invested or which is able to raise revenue in terms of legislation or whose sources of revenue regulated by law should be required to report and give evidence to parliament in a manner determined by national law." That was what we actually... We actually had a discussion on that and we

actually did all agree, all of us agreed, that we should insert a clause of that sort, but we said that nothing else on public enterprises... You are correct. About anything else... And so, with that exception, we did reach that agreement. I don't know whether you were here at that meeting or not.

???

Why didn't they put something for us then and formulate it for us because we gave them the guidelines.

Chairperson

I think that's what we can discuss when we get to the clause. We can discuss whether to say that should go in the formulation.

???

OK. Thank you.

Chairperson

OK. But let's then go clause by clause. I don't know whether you people want me to read the clause and read the parallel clause in the Interim Constitution, whether that will be useful. Or whether we just take it as... I just shout out the number. What do people prefer? Which of those options do people want to go with? To read out the clause and then read it out of the Interim Constitution, just to see if there's anything because a lot of these were parallel. "There shall be a national revenue fund. All revenues as determined by national law, raised or received by the national government, shall be paid into the national revenue fund. Parliament shall make appropriations from the national revenue fund in accordance with national law." And this parallels the clause "there is hereby established a national revenue fund into which shall be paid all revenues as may be defined by an act of parliament raised or received by the national government and from which appropriation shall be

made by parliament in accordance with this Constitution, already applicable act of parliament and subject to the charges imposed thereby." Are there any comments on that? I think that, that is actually... more or less parallels it. I would have thought that... There is a footnote there. I'm sure someone will say it has got too many clauses, subordinate clauses in it. It will probably be reformulated, but at another level. I think it covers that as far as I can see. OK. 2, "No money may be withdrawn from the national revenue fund except under appropriation made by national law. Revenue to which a province is entitled in terms of this Constitution shall form a direct charge against the national revenue fund to be credited to the provincial revenue fund concerned." And there are a couple of footnotes there. Basically the question of how the provinces are going to... what they are going to be entitled to in terms of the Constitution has not yet been drafted. That has been noted there. The question of 'credited' as opposed to 'paid into'. Remember, we had a discussion about that, but that's noted, that reservation there. The fourth footnote says it parallels 185(ii), which reads "No money shall be withdrawn from the national revenue fund except under appropriation made by an act of parliament in accordance with this Constitution provided that revenue to which a province is entitled in terms of section 155.2 (a), (b) (c) and (d) shall form a direct charge against the national revenue fund to be credited to the respective provincial revenue funds." Are there any comments on that? I would say it's OK. Annual budget. That is put into the footnotes because we need a clause on the annual budget. That's what we agreed on, but there's not consensus on what should go into the clause. "The following issues have been discussed by the

TC. The issue of the balanced budget, the issue of disclosure and reporting of government accounts and budgets, the issue of including a statement of costs with all bills laid before parliament and these issues are still under consideration. Drafting would be premature at this stage. If the substance of 186 of the Interim Constitution is to be retained, the following wording is proposed: 'The minister responsible for national financial affairs shall in respect of every financial year lay an annual budget before the National Assembly. The annual budget shall reflect the estimates of revenue expenditure which shall, among other things, reflect capital and current expenditure of the government for that year.'" I have one comment on this. I am not quite sure about the use of National Assembly. I think aren't they using parliament? I think they say parliament in everything else. I think we should... And also there's the whole question about the Senate and the chop.

Mr ???

Just inform me, Mr Chairman, I remember that as stated there that people were very strong on the issue of a balanced budget. If you remember the debate and the people, both of them are not here today, that pushed that idea very strongly, if I am correct and if I remember correctly, please help me. I am a little bit worried. How are we... Are we going to do anything about drawing up something here today or are we leaving it like this, send it through that it can be discussed at the CC where these people are present to formulate their own? I don't think... I would like, just for the sake of this committee and the working of it, whilst the other people are not here and they pushed for it, and I mean it is specially mentioned here, that we don't push it today and rather, my proposal will be,

leave it as it is, a blank space and send it through to the CC where all the parties are sitting and formulate it. Then that we... There are only two parties here today. I think we are not more, only two, the National Party and the ANC, that we leave it like that and then they can make their input there. That's what I would like. It is only a suggestion that I would like to put forward at this stage.

???

Mr Chairman, no, I think, you see there was a strong contention and if you look at page 24, the ANC held that in certain circumstances it is actually impossible for one to actually balance the budget and it was argued, no doubt by the DP and the IFP, that there should be an insertion, you know, of a clause, or rather a provision that there should be a balanced budget. But equally there was a strong argument against the thing. And I think the NP, if I recall, did support the idea that in certain circumstances it was just impossible to actually balance the budget. Now, if the Constitution actually makes provision for a balanced budget, then I think we are transcending, you know, the possibility, you know, of there being an unbalanced budget and restricting government to certain parameters which they may not be able to fulfil.

Chairperson

I think Pete's right that the footnote here, it's not included, there's no text drawn. The footnote says that there are differences over this matter and therefore it hasn't inserted any clause. It says that "were not to be upheld". This is a possible clause. But if the CC were to decide to go with the DP and the FF proposal, then there would be other formulations. But you're quite right, it's a matter of contention and I think that is correct. That is how it should

go from the subcommittee to the CC. I think that is correct. I think only if we say that we actually all agreed about something, which is where the fifth clause comes in, would we take it up. But in this case I think it's correct. OK. Procurement administration. 3,1 "The procurement of goods and services for any level of government shall be regulated by national and provincial laws. Such laws shall make provision for the appointment of independent and impartial tender boards to deal with such procurement." It parallels "The procurement of goods and services for any level of government shall be regulated by an act of parliament and provincial laws which will make provision for the appointment of independent and impartial tender boards to deal with such procurements." OK? I think that was more or less what we all agreed. 3.2, "The tendering system shall be fair, public and competitive. A tender board shall give reasons for its decision, if requested by an interested party." And the thing reads here "The tendering system referred to in subsection 1 shall be fair, public and competitive and tender boards shall, on request, give reasons for their decisions to interested parties." Correct. "No person and no organ of state shall improperly interfere with the tender board and the discharge of its functions." "No organ of state and no member of any organ of state or any other person shall improperly interfere with the decisions and operations of tender boards." Any comments? "All decisions of any tender boards shall be recorded." That's what it says in the Interim Constitution. What it says here, "All decisions of the tender board shall be recorded and shall be open to public inspection." OK? Guarantees by national government. "The national government may not guarantee provincial or local government loans unless the

guarantee complies with the norms and conditions for such a guarantee as set out in a national law and (b) the financial and fiscal commission has made a recommendation concerning compliance of the guarantee with such norms and conditions." It parallels: "The national government may not guarantee any provincial or local government loan unless the guarantee complies with the norms and conditions for such a guarantee as set out in an act of parliament and (b) the financial and fiscal commission has made a recommendation concerning compliance with the guarantee concerned with such norms and conditions." OK? Now, let's get onto clause 5. Clause 5 has not been included in the main body, but it does note "There is a consensus on the inclusion of a short section in the Constitution which provides that any enterprise in which public money is invested or in which it is able to raise revenue in terms of legislation or whose sources of revenue are regulated by law, should be required to report and be available to give evidence to parliament in a manner determined by national law." I actually think that we all agreed on that and therefore that should be written into the main body. I think you can put the other notes in there, but I think we would say that should go into the main body and not be just in a footnote.

(off mike discussion)

Correct. So what we are going to send through to the CC is the text as it stands with two...

(interjection)

OK. Well, there are two amendments, so let me just note the two amendments. The first one is on page 19, footnote 5, under 2, Section 2, the proposed section, instead of 'National Assembly' it should be 'parliament', but the whole

thing remains in the footnote because it is a matter of contention. Under clause 5, I think the wording is almost here, I mean, that the law advisers can just work on it if they like. It starts with the 'any enterprise'. "Any enterprise in which public money is invested or which is able to raise revenue in terms of legislation or whose sources of revenue are regulated by law should be required to report and be available to give evidence to parliament in a manner determined by national law." I would say we would insert that in the main body, under 5. OK?

(mike off for a spell)

No, they agreed.

Mr???

In fact when we were drafting this, we looked at blocks, block 11 as it is. Block 11, what has only been agreed upon is that there should be a clause such as, you know, requiring some form of reporting. But what the clause should actually contain, or how the clause should actually be framed, is something that we as law advisers felt we couldn't actually go ahead and do, on the basis of the column referring to further clarity required in the condensed what-you-call-it Theme Committee report. The first point there was that the DP does not favour inclusion of public enterprises in the Constitution in general. This is on page 13. According to... According, all parties concur on the formulation of an additional section on the basis outlined in that charge block, refer section in block on consensus, which is on the other side there. But the point made here is that we felt that we couldn't actually write out a clause. Parties need to debate this. Although there is clear agreement that there should be a clause, what the clause will refer to, the other ??? of the autonomy of the

commissioner for land revenue. "The ANC suggests discussion on the possibility of introducing it in subsidiary legislation and not in the Constitution" and such comments that were raised, I believe, in the TC. But if this committee wants us to put in what is in that consensus column on 11, we can do something.

Chairperson

I think that's what you should do because we actually read out that phrase and that consensus thing. Everybody agreed to that. That is under the consensus column on page 30. Everyone agreed to it. And you more or less reproduced it in the first part to footnote 11. So, I think that it should go in there. Ja, from there. From 'any' until 'national law'. OK.

(mike off for a spell)

I think that's right. That does also reflect the consensus in the committee as well as... Not just those of us who are here. Could we now move on to the FFC?

(mike off for quite a while)

But I would suggest you just use your common sense and if you refer to your party's submission in the other tables and see if you think it is covered.

(mike off)

No, no, I was going to say. Let's not have our last meeting...

(mike off)

Ms???

You know, I think that ??? has a point in that the people who were debating from the National Party and the other parties aren't here on the SST. What I suggest is that we just go through it. I mean, I think we are familiar enough with the arguments from the other parties to ascertain whether there will be contentious issues. I don't think we can send anything forward until they have approved. We

really don't have a quorum here at the moment. I mean, it's most unfortunate, but we don't have that quorum.

Chairperson We'll have to have another meeting then.

Ms ??? Is it not possible to get hold of Org, or who was the other person?

(off mike comments)

Chairperson OK. Well, if there's that sort of request then I don't think we can carry on. I think that the matter now is a question of when the committee can meet again.

Mr ??? Ask ??? is it not possible to find those members? I mean, where are they?

(off mike comments)

Ja, I see. OK.

Chairperson OK. If it's Monday I can't be here, but the rest of the committee could be.

(off mike discussion)

I personally don't think I can make lunchtime. No, I can't. Sorry? Ja and there's also going to be CC and I am going to have to go for the last, the other one. For the one we've just done. OK. I've got lunchtime meetings on Tuesday and Wednesday next week. We could have the lunchtime meeting on Thursday if you want.

(off mike discussion)

No, I said I can't come on Wednesday lunchtime. I would not have a problem myself. No, hang on I will have a problem. Well, Monday is the time. I won't be here, I don't know whether Barbara would...

Mr ??? I won't be here either then.

(off mike discussion)

Chairperson Well Snakes has now just suggested Monday the 11th. Well, maybe I can cancel my lunchtime on Tuesday. If everybody else can make Tuesday, I can maybe cancel my lunch.

(off mike discussion)

Ms ??? Tuesday is going to be one helluva day. It's something to do with finance and JSE report that's going to go from 9 until half past 12, from 2 o'clock then it's the public accounts, from 4 o'clock onwards then it is public accounts again.

Chairperson I think what people are suggesting is 12,30 on Tuesday.

Ms ??? It just means that most of the people involved are going to be sitting from 9 o'clock until 6 o'clock without a single break. You can't do that. Tuesday, the 5th. From the 11th to the 22nd both Gill and I aren't available, but I mean maybe Rob and Billy can carry on then. We've got to go to the budget committee hearings in Pretoria.

(mike off)

They won't be coming on the 11th or the 22nd. You know, what I suggest is that we go ahead with discussion on this now, on the SST. No, we can't really. From 9 to... Well, it will be to 7, without then a single break.

Chairperson What about 8 o'clock in the morning?

Ms ??? Okay. It's going to be one helluva day.

Chairperson It's either Monday or... Wednesday we have caucus at 8 o'clock. 8 o'clock on Tuesday.

Ms ??? OK.

Chairperson Tuesday the 5th.

(off mike discussion)

Will we finish it in an hour? Will a certain person from a small party present... Will we finish in an hour?

(off mike discussion)

Ms ??? If we don't complete it within that hour, we've got the following... Well, Wednesday... and Thursday is caucus.

Chairperson Let me tell you what. Let's meet on Tuesday at 8 o'clock. If we don't finish in that hour, then we'll have to sacrifice our lunch.

Ms ??? Rob, if it's going to be virtually... I mean, we are sitting... It's heavy hearing. With the TBVC state hearings and the public accounts committee. I mean you are literally saying to us that we are sitting virtually nearly ten hours non-stop. It's impossible.

(off mike discussion)

Chairperson All right, let's do this. Let's meet at 8 o'clock on Tuesday and if we have to do extra time, then we'll have to try and see how we can...

Ms ??? If we can't finish on Tuesday, can't we then finish from 5 on Wednesday afternoon onwards because we have got the Transkei hearings from 2 o'clock onwards.

Chairperson I can't make 5 o'clock I'm afraid.

Ms ??? And then Thursday? 5 o'clock on Thursday.

Chairperson

Ja, I could do that. But I think we've just got to assume that parliament is not going to finish at 5 o'clock. Thursday. I mean whether the whips will let us out at 5 o'clock, that's another question. Just let me bring Ken on board. What we've done, Ken, is we've gone through the National Revenue Fund. I'll tell you what we've done there just now. We better just bring you back on board. We are basically faced with the situation now where Pete is saying the people from the National Party that deal with FFC are not here. You were not here just now. Willie was not here. And we are now talking about another meeting and we are up against a rock and a hard place here. About the only thing we can come up with now is Tuesday morning at 8 o'clock for not more than 55 minutes, with the proviso that if we don't finish the FFC then, then we have to try to find another time and we were talking about the other time possibly being Thursday afternoon at 5 o'clock, if the whips will let us out. So, how does that sound? Anyway, we'll start with the 8 o'clock Tuesday. Thursday afternoon at 5. OK. We'll leave that time, we hope we won't have to use it. So we ask Pat to make a special effort to get everybody informed and to make sure that all the FFC types are here at 8 o'clock. We'll have to be prompt because we have Finance Committee at 9 o'clock. So we have a maximum of 55 minutes. OK. That's the proposal. E216, that's a good idea. OK. So the FFC is then dealt with. I think we better just get Ken on board on what we did earlier on. Ken, we went through the drafting on page 18 of the pink document and the things which we picked up were two very small matters, which were basically in note 5 on page 19. We agreed that it was correct that it was put that way because the proposals from your party and the Freedom Front

constituted still matters of contention. But in the sort of draft that they suggested if the substance of Section 186 was to be retained, there needs to be a small amendment in that. The second line where it says 'National Assembly' needs to be 'parliament' and then the only other thing which we came to was on page 21, the clause on accountability of public enterprises. We actually said there was a consensus on the... In note 11, the second line from 'any enterprise' to 'national law' that, that should go in the body of the text. It's not something that should go in the footnote. You see the second line. There was a consensus on that so that should go in the main body and not in a footnote. Those were the only things that we have picked up. I don't know if you have anything else you want to draw to our attention. OK. Is that agreed? Does everyone agree to that? OK. Have you got that? Have you got the main minutes book? The one I signed? Sorry, can we just get the right book, page 10. And the other one? I wonder if we could just get Snakes and Pat to convey that to the attention of the...

(off mike discussion)

Ms ???

Have you managed to go through the FFC document at all? Couldn't we just cover what the DP's got and the ANC's got under FFC now, Rob. You know, it would probably expedite because then we'd only have to have the NP's input on Tuesday.

Chairperson

OK. Can we try that? OK, fine. Then this is now an informal meeting. OK, bilateral, if you want. OK. Let me just... But we'll follow the same procedure. OK. I have just been informed by the law advisers that they may actually slightly condense that paragraph on the public enterprises. Let's say

that we will have sight of that when we deal with it at CC level. OK? All right, can we come onto the FFC then? On this white document, page 1. I'll follow the same procedure. I'll read out what's here and then I'll read out what's in the Interim Constitution that it parallels. OK? "There shall be a financial and fiscal commission for the Republic. The commission shall be independent, impartial and subject only to this Constitution and the law." The parallel is "There is hereby established a financial and fiscal commission." I think there are a couple of little legal things here 'for the Republic', you know, that sort of stuff. Whether that's necessary, but we'll let the lawyers pick that up. OK? We have got 'powers and functions'. "The commission shall apprise itself of all financial and fiscal information relevant to national, provincial and local government administration and development. It shall render advice and make recommendations to the relevant authorities regarding the financial and fiscal requirements of the national, provincial and local governments in terms of this Constitution, including..." Let's just stop. See what it says here: "The objects and functions of the commission shall be to apprise itself of all financial and fiscal information relevant to national, provincial and local government administration and on the basis of such information to render advice and make recommendations to the relevant legislative authorities in terms of this Constitution regarding the financial and fiscal requirements of the national, provincial and local governments including..." I must say I don't actually like the word 'apprise' very much. No, it isn't. I think we should... Do we agree we ask them to 'acquaint itself with' or something like that. I don't know. Barbara? All right, shall we... When we meet on Monday let's think of another

phrase there, another word. Barbara?

Ms ???

General constitution provision.

Chairperson

"The checks and functions of the commission shall be to apprise itself of all financial and fiscal information relevant to national, provincial and local government administration and development and on the basis of such information to render advice to make recommendations to the relevant legislative authorities in terms of this Constitution regarding the financial and fiscal requirements of the national, provincial and local governments including..."

Hogan
Ms Barbara???

In this thing it says 'to the relevant authorities' not 'to the relevant legislative authorities'. I would argue that we need to maintain legislative authorities because it's in line with our argument that 'the powers of legislative authority should not be undermined in its process'. Authorities could actually just mean the executive. We are talking about the FFC recommendations must go through the legislatures.

Chairperson

Is it legislative? Or should it be legislative and executive?

Ms Barbara ???

Legislative because that implies executive of thereafter.

Chairperson

Now, let's go to the including. Financial and fiscal policies - that's the same. Equitable financial and fiscal allocations...

(end of tape 2)