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CONSTITUTIONAL ASSEMBLY

CORE GROUP 3

**RELATIONSHIP BETWEEN
LEVELS OF GOVERNMENT**

Tuesday 14 March 1995

Room G26

(14H00)

DOCUMENTATION

(Minutes of the meeting held on 9/3/95)

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CONSTITUTIONAL ASSEMBLY

MEETING OF CORE GROUP THEME COMMITTEE 3

RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

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

Date : 14 March 1995

Time : 14h00

Venue : G26

AGENDA

1. ✓ Opening
 2. ✓ Minutes of the previous meeting
 3. ✓ Matters arising
 4. ✓ Workshop
 5. ✓ 5.1 Weekly media briefing *TANGO*
 6. ✓ 5.2 Progress report for advertising agency meeting 15/3/95 *TANGO*
 6. Evaluation Constitutional ^{*PARTIC*} Provincial Meetings of 11 & 12 March 1995
 7. ✓ Penguin Films *TANGO*
 8. ✓ Joint CG meeting
 9. Constitutional Principles
 10. Agenda for Theme Committee meeting 20 March 1995
 11. General - *WK PROG. 4 NXT 2 MTHS*
 12. Closure - *PROG RE REPORTS ON CIVIL SOC*
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H Ebrahim
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Constitutional Assembly

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CONSTITUTIONAL ASSEMBLY
MINUTES OF THE MEETING OF
CORE GROUP 3
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT
MONDAY 9 MARCH 1995 (AT 14H00)

PRESENT
KM ANDREW (CHAIRPERSON)

Du Toit DC
Groenewald PJ

Smith PF

Technical Advisors
None

Apologies
TJ King

Absent
P de Lille

Attendance
Sandra Haydon and Mbaso Mxenge

1. OPENING

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

2. MINUTES OF THE PREVIOUS MEETING

2.1 The minutes of the meeting held on 6 March 1995 were adopted with the following amendments:

- i. Para 4.1.3 i. to be deleted;
- ii. Para 4.1.4 to be deleted;
- iii. Para 4.3 Convenor's
- iv. Para 4.4.1, 'they' is replaced with the words ".... the Theme Committee members...."; and

- v. Para 4.4.2, to read ".... as to the need for education within the community in advance of a Constitutional Public Meeting so as".

2.2 The minutes of the second meeting of the Core Group held on the evening of 9 March 1995 were adopted with the following amendments:

- i. Page 6, PF Smith attended the meeting and not R Rabinowitz as shown.
- ii. Para 3. delete the words "the topic being concurrency";
- iii. Para 5. delete; and
- iv. Para 6, is amended to read ".... the Constitutional Committee was apparently referring back to the Theme Committee for discussion. However the Core Group will await written notification from the Constitutional Committee before taking any action in this regard".

3. MATTERS ARISING

Prof Du Toit advised that the issue relating to Prof Venter will be put before the ANC caucus. The meeting agreed that Prof Venter will continue with his work as Technical Advisor to Theme Committee 3.

4. **FRAMEWORK HEADING 2**

The Secretariat was asked to rewrite the document as it applies to Phase 1 as set out below:

ANNEXURE A

CONSTITUTIONAL ASSEMBLY

**THEME COMMITTEE THREE
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT**

**FRAMEWORK FOR SUBMISSIONS
ON NATIONAL AND PROVINCIAL LEGISLATIVE AND EXECUTIVE
COMPETENCIES [Phase 1]**

ALLOCATION OF POWERS

(covering inter alia the answers to):

1. Should the Constitution list only the competencies of government at national level? If so, which?
2. Should the Constitution list only the competencies of government at provincial level? If so, which?
3. Should the Constitution list both national and provincial competencies? If so, which?

**RELATIONSHIP BETWEEN NATIONAL AND PROVINCIAL GOVERNMENTS
IN RELATION TO THEIR POWERS**

(covering inter alia the answers to):

1. Should *exclusive* and *concurrent* powers be listed expressly for each level of government? If so, which?
2. Should the Constitution expressly provide for *overriding* powers for the national level of government in certain prescribed instances? If so, which?
3. What are the mechanisms which should be provided for in the Constitution to regulate the relationship between national and provincial government?

4. Should the competencies of the provinces be fixed by the Constitution, or should the Constitution allow for an evolutionary process?
5. Should the field of (potential) activity of provincial authorities as contained in the 1993 Constitution be amended? If so, how?

LOCAL GOVERNMENT

(covering inter alia the answers to):

1. How, in broad terms, should the Constitution deal with local government as a consideration in the distribution of competencies between the national and provincial levels of government?

5. ADVERTISING

The advertisement for Phase 2 submissions which will first appear this weekend, was tabled. The Secretariat was asked to establish which papers will carry the advert.

6. CONSTITUTIONAL PUBLIC MEETINGS

The IFP submitted a list of suggested questions which would cover issues relevant to the Theme Committee, to be put to the public at the Constitutional Public Meetings on 11 & 12 March 1995. It was agreed that Prof Du Toit and Mr PF Smith would meet to redraft the questions which would be forwarded to the Secretariat by 10h00 Friday 17 March 1995.

7. WORKSHOP 13 MARCH 1995

The meeting agreed that no agenda would be set and to leave the structure of the workshop to the Technical Advisors.

8. FEEDBACK FROM TECHNICAL ADVISORS

None

9. IMPORTANT ROLE PLAYERS

- 9.1 The IFP agreed to edit the long list of names which it has submitted to the Secretariat.

- 9.2 It was agreed that at the Theme Committee meeting to be held on 13 March 1995, parties would be asked to submit a list of not more than 30 additional names to the Secretariat by Wednesday 15 March 1995. Any names submitted after this date would become the responsibility of the party to contact.
- 9.3 The secretariat was asked to write to the Rectors or the Vice Chancellors (as is appropriate) of all the universities, enclosing three copies which they would be requested to distribute to the appropriate people to make submissions.
- 9.4 The meeting agreed that a draft letter submitted to the Core Group be written to all the Premiers inviting submissions on Phase 1, by 7 April 1995. The final date for submissions from civil society would remain the 24 March 1995.

10. JOINT MEETINGS WITH TC's 1 & 2

- 10.1 It was agreed to ^{request} instruct the Technical Advisors of Theme Committee 3 to liaise with the Technical Advisors of other Theme Committees as to the best way to deal with overlapping issues.
- 10.2 The Secretariat will follow up on the request for the Financial and Fiscal Commission to address the Theme Committee.
- 10.3 The Secretariat tabled the invitation from Theme Committee 6 to attend the address by Prof Anwar Shah from the World Bank on 8 May 1995 on 'Intergovernmental financial and fiscal relations at local, provincial and national levels.'

11. AGENDA FOR THEME COMMITTEE MEETING 13 MARCH 1995

The meeting agreed to the agenda as proposed by the Secretariat.

12. GENERAL

- 12.1 **Beyond 2000 - Local Government Workshop.** The Secretariat was asked for more details as to the payment of travel and accommodation expenses.
- 12.2 **Penguin Films.** Concern was expressed that issues which relate to Theme Committee 3 are scheduled for the first programme only. It was agreed that the matter be referred to the Theme Committee for further discussion.

12.3 **Weekly media briefings.** The secretariat tabled the media department memorandum which requests each Theme Committee to nominate one or two persons to attend the briefings to be held every Thursday at 14h00 at Regis House. This issue was referred to the Theme Committee for discussion.

13. CLOSURE

The meeting closed at 15h55.