

**CONSTITUTIONAL ASSEMBLY  
THEME COMMITTEE ONE  
CHARACTER OF THE DEMOCRATIC STATE**

**MINUTES OF THE MEETING OF THEME COMMITTEE ONE  
MONDAY 11 SEPTEMBER 1995 09H30 ROOM M515**

**Present**

**Mahlangu NJ (Chairperson)**

**Chiba L  
Fani LM  
Goosen AD  
Gumede DM  
Hangana NE  
Janse Van Rensburg AP  
Kekana NN  
Kuzwayo NEK  
Mabuza MC  
Marais A  
Meshoe KR  
Mngomezulu PG  
Momberg JH**

**Moorcroft EK  
Mukhuba TT  
Ncube BS  
Niehaus CG  
Nobunga BJ  
Schoeman EA  
Shope G  
Sisulu AN  
Streicher DM  
Van Deventer FJ  
Van Zyl ID  
Williams AJ**

**Apologies:**

Chiwayo LLL  
Majola-Pikoli NT  
Marais PG  
Mulder PWA

**Technical Experts present:**

Heunis JC

**Leola Rammable and Susan Rabinowitz were in attendance.**

**1. OPENING**

1.1. The meeting was opened by the Chairperson at 09h35.

**2. ADOPTION OF PREVIOUS MINUTES**

2.1 The Minutes of the Theme Committee meeting held on 28 August 1995 contained in Document A35 [Pages 2 - 5] were adopted.

### **3. MATTERS ARISING**

3.1 None.

### **4. FINALISATION OF DRAFT CONSTITUTIONAL PROVISIONS FOR BLOCK 8 (FOREIGN RELATIONS AND INTERNATIONAL LAW)**

4.1 Dr Heunis tabled the Draft Constitutional Provisions for Block 8 dealing with Foreign Relations and International Law [Document A35 Extra Documentation]. He reported that these Draft Provisions had been prepared with reference to the draft prepared by Prof John Dugard and in consultation with him and the Law Advisors of the Department of Foreign Affairs as well as with reference to the submissions made to the Theme Committee on this issue.

4.2 After discussion of the draft constitutional provisions by the Theme Committee, it was agreed that the following amendments should be made to the document :

4.2.1 Page 4, Paragraph (10) should be amended in order to clarify that in the case where there may be a conflict between an Act of Parliament and customary international law, the Act of Parliament would prevail.

4.2.2 It was agreed that the ANC's contentious proposal in the Report for Block 8 regarding the declaration of a state of national defence be given expression in the form of draft provisions. It was agreed that the Technical Experts should amend the Draft Constitutional Provisions to include this proposal.

4.3 It was further agreed that, subject to the agreed amendments being made to the Draft Constitutional Provisions, the Report on Block 8 was approved for submission to the CC and that the revised draft would be circulated to Theme Committee members.

### **5. PUBLIC PARTICIPATION**

5.1 There was no report.

### **6. GENERAL**

6.1 None.

**7. CLOSURE**

7.1 The meeting rose at 10h55.

CHAIRPERSON