

Inkatha Freedom Party
IQembu lenkatha Yenkululeko

THEME COMMITTEE No. 6
SUBCOMMITTEE ON
FISCAL INSTITUTIONS & PUBLIC ENTERPRISE

FIRST REPORT ON THE
FINANCIAL AND FISCAL COMMISSION
AND FISCAL INSTITUTIONS AND PUBLIC ENTERPRISE'

FISCAL AND FINANCIAL COMMISSION

The precise scope, nature, powers and functions of the Fiscal and Fiscal Commission [FFCI provided for in Constitutional Principle No. XXVII will be defined only once the Fiscal and Financial Relations between first and second tiers of government have been decided upon. In fact, both the purposes and the work load of the FFC will need to reflect also the allocation of taxing powers, taxing bases and the characteristics of the chosen system of revenue collection. Therefore the preliminary positions expressed in this document will need to be reassessed upon completion of the last report on Fiscal and Financial Relation of the Theme Committee. No. 3.

COMPOSITION AND FUNCTIONING OF THE COMMISSION 1 . The

Commission shall consist of:

- a) two members nominated by each of the Provincial Cabinets, and appointed by the President (Head of State).
 - b) two members nominated and appointed by the Head of Government.
2. At least one of the members chosen by each of the Provinces or by the national Government shall be an expert in economics, public finance, public administration, taxation, or management.
 3. Members should be South African citizens.

4. Members may not hold other public office.

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The IFP makes this submission under protest, for the Constitutional Committee should withhold consideration of the matters covered in this report and further development of work program so as to allow international mediation to take place.

5. Members may only be removed from office by the President upon recommendation by the authority which originally designated them.
6. All vacancies shall be filled with the same appointment procedures.
7. Members shall serve for a five year non-renewable term.
8. The Commission shall be operational within 120 days from the commencement of the new constitution.
9. The Commission shall elect a chairman and deputy chairman, and shall recommend to Parliament the full or part-time nature of the employment and the remuneration structure of its members.
10. The Commission shall be independent from the Public Service Commission

11. FINANCIAL INSTITUTIONS AND PUBLIC ENTERPRISE

Neither "financial institutions" or "public enterprises" are referred to in Schedule 4 of the interim Constitution. The constitutional relevancies and the far reaching economic roles of financial institutions and public enterprises are to be determined within the broader parameters of the Economic Constitution which is the object of the third report of Theme Committee No. 1. The broad parameters of the IFP proposals for an Economic Constitution are dealt with at page 53 et seq. of the IFP

Preliminary Submission to the Constitutional Assembly, to which reference is made.

FINANCIAL INSTITUTIONS

1. Commercial banks, building societies, insurance companies, mutual funds, pension funds and all other financial institutions shall be privately owned and controlled.
2. The law may regulate financial institutions to protect consumers, investors and third parties and to ensure transparency, but shall not interfere with the organizational and operational autonomy of these institutions.
3. Licensing requirement shall not be used to limit free-market competition or to discriminate on political basis
4. Anti-trust and appropriate competitions legislation will apply to these institutions as it will apply to all commercial concerns operating in the national economy.
5. Within the parameters of national framework legislation, Provinces shall be competent to legislate on, license and regulate full service-banking and other financial institutions on a provincial basis.

PUBLIC ENTERPRISE

- 1 The constitution shall set clear and justiciable limits for the establishment and operation of enterprises under the direct or indirect control of government
2. No enterprise shall therefor be acquired or conducted by the government or its instrumentalities either as a monopoly or as a free competition enterprise, and no service shall be provided to the public by the government unless so authorized by a law demonstrating a public need and the inadequacy of the private sector to satisfy such need with comparable efficiency and reliability. When

these requirements no longer exist the enterprise or the service shall be privatized.

3. A Privatization Commission shall be established to transfer to the private sector the enterprises which are under the control of any government in conflict with the foregoing provisions of the constitution. The Commission shall consist of nine highly qualified and independent experts in economics, finance and business administration, three appointed by the President, four by Parliament and two by major business associations.
 - 3.1 The Privatization Commission shall develop a privatization plan to be submitted to Parliament for approval. The Commission shall adjust the implementation of the privatization plan so as to best cope with changing economic circumstances, seeking the approval of Parliament when necessary.
 - 3.2 The privatization effort shall be balanced, shall maximize economic efficiency, shall support economic growth and shall not neglect the need to provide for a distribution of ownership which also accommodates members of disadvantaged communities. The phases and the time frame of this effort shall be set in the privatization plan.
 - 3.3 The Government shall implement the privatization plan. The Privatization Commission shall monitor the implementation of the privatization plan so as to ensure that the privatization effort is completed in the absence of corruption, inefficiency, personal gains and governmental waste. Every six months the Commission will issue a report to Parliament.
 - 3.4 The Privatization Commission shall operate for seven years unless it resolves to dissolve itself prior to such date or is extended in office by resolution of Parliament.
4. Other areas of constitutional application which are necessary for the maximization of private and free enterprise as applies to the public enterprise debate include
 - a. Private property rights.

- a. 1 Private property shall be guaranteed and protected. Limitations on the use and enjoyment of private property may be imposed so as to satisfy social, environmental and collective needs.
- a.2 The right to convey one's own property by contract or inheritance shall be protected subject to the reasonable exercise of the power of taxation.
- b. Limitations on the power of government to interfere in economic affairs
- C. The constitutional recognition of right to free economic initiative.
- c. 1 The right to free economic initiative and enterprise shall be recognised, protected and encouraged by the National and the Provincial Governments. The National Government shall assist the Provinces to assist small businesses and shall provide other incentives to encourage access to economic opportunities.
- c.2 Within the limits set forth by the law to protect the public interest, each enterprise shall be free to choose and organize the means of the production as it best sees fit.
- d Contractual autonomy.
- d. 1 Within the limits set forth by the law to protect the public interest, the National Government shall assist the Provinces to recognise and protect the right of individuals to self-regulate and organize their interests in economic and other matters by means of legally enforceable contracts and by establishing legal entities to carry out their purposes and objectives.
- e. Permits and licensing requirements (limitations thereof).
- e. 1 The Republic shall not subject human conduct to unreasonable or unnecessary licensing and permitting requirements.
- e.2 Permits and licenses shall be issued on the basis of objective and reasonable standards and criteria.