

COMMISSION ON PROVINCIAL GOVERNMENT

PRELIMINARY SUBMISSIONS ON PROVINCIAL GOVERNMENT SYSTEMS

In compliance with the agreement between the management of the CPG and CA, I enclose the under-mentioned preliminary recommendations of the Commission for consideration by the relevant committees. I must emphasize that these recommendations contain only the interim views of the Commission as all the information required for the final recommendations has not yet been collected. The comments of the provinces have also not been obtained yet. Kindly inform the committees accordingly.

Preliminary recommendations in regard to Finance and Fiscal Affairs (Document 7)

Further preliminary recommendations will be forwarded as soon as possible as per the Commission's programme which has been submitted to you.

CHAIRPERSON

18 May 1995

PRELIMINARY RECOMMENDATIONS ON PROVINCIAL FINANCE AND FISCAL AFFAIRS RECOMMENDATIONS - DOCUMENT 7

1. INTRODUCTION

- 1.1 See introductory notes under recommendations on provincial legislative competence (Recommendation 2).
- 1.2 Constitutional provisions relating to the financial and fiscal affairs of provincial and local governments are extremely important because they determine not only the measure of autonomy but also the effectiveness of those governments in executing the powers and functions allocated to them. (See Constitutional Principles XX and XXI.)
- 1.3 Detailed provisions should not be dealt with in the Constitution, but rather in other national or provincial laws as required.

- 1.4 The new Constitution therefore need contain only general provisions which will determine how a provincial government may acquire the revenue (taxes, allocations, loans and other income) required for its activities; the methods by which revenues may be appropriated for expenditure; and mechanisms to ensure the proper accounting for such collection and expenditure of revenue.
- 1.5 Provisions in regard to local government financing (especially in so far as it involves allocations from national revenue), also need to be included in the new Constitution. However, this matter will be dealt with in a later document dealing with local government in general.

2. **CONSTITUTIONAL PRINCIPLES AND PROVISIONS**

- 2.1 The provisions of the new Constitution relating to the financial and fiscal affairs of provincial governments shall, in terms of section 91 of the interim Constitution, comply with the applicable Constitutional Principles. The main relevant Principles are the following:

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Each level of government shall have appropriate and adequate legislative and executive powers and functions that will enable each level to function effectively. The allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and to effective public administration, and which recognises the need for and promotes national unity and legitimate provincial autonomy and acknowledges cultural diversity.

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The national government and provincial government shall have fiscal powers and functions which will be defined in the Constitution. The framework for local government referred to in Principle XXIV shall make provision for appropriate fiscal powers and functions for different categories of local government.

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Each level of government shall have a constitutional right to an equitable share of revenue collected nationally so as to ensure that provinces and local governments are able to provide basic services and execute the functions allocated to them.

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A Financial and Fiscal Commission, in which each province shall be represented, shall recommend equitable fiscal and financial allocations to the provincial and local

governments from revenue collected nationally, after taking into account the national interest, economic disparities between the provinces as well as the population and developmental needs, administrative responsibilities and other legitimate interests of each of the provinces.

- 2.2 The implications of Constitutional Principles XXVI and XXVII as crystallised in sections 155 and 156 of the interim Constitution are that each provincial government has a constitutional right to:
- (a) revenue which may be apportioned and spent at its discretion, derived from the following sources:
 - (i) an equitable share of revenues collected nationally, that will ensure its ability to provide the services and execute the functions allocated to it;
 - (ii) the transfer duties on property situated within the province;
 - (iii) taxes, levies, duties and surcharges on taxes as determined by section 156(1) of the interim Constitution;
 - (iv) taxes, levies, and duties on casinos, gambling, betting, etc., as determined in section 156 (1 B); and
 - (v) other unconditional allocations out of national revenue; and
 - (b) conditional allocations which, as the term implies, are subject to direction by the national government in regard to their spending.

In the Commission's view these provisions allow provincial governments a degree of autonomy, consonant with CP XX, especially in regard to expenditure of unconditional allocations set out in sub-paragraph (a) above.

The determination of allocations under both (a) and (b) above will have to be made in terms of the considerations set out in CP XXVII.

- 2.3 The general requirements relating to effectiveness, financial viability, accountability and responsibility contained in various other Principles also need to be provided for in the new constitutional provisions.
- 2.4 The Commission is required by section 164 (3) of the interim Constitution to take into consideration the provisions of the interim Constitution relating to financial and fiscal matters, which are contained mainly in sections 155 to 159, 187, 188, 193 and 198-200. The text of these sections is appended for easy reference.

3. DISCUSSION

- 3.1 In order to obtain information required to formulate its viewpoints and recommendations in regard to financial and fiscal matters relating to provincial systems of government, the Commission organised a special workshop in which the views of foreign and local experts and representatives from a large variety of institutions, including Parliament, the national government (state departments), provincial legislatures and executives, local governments and local government bodies, the Financial and Fiscal Commission and many others were solicited. Written submissions from a number of institutions were also obtained and considered and literature on the subject was studied. The Commission was assisted during its deliberations by a task group consisting of economists, lawyers and other persons with knowledge of and experience in dealing with financial matters.
- 3.2 From the discussions, submissions and literature studies, there appears to be a general consensus that -
- (i) only limited taxing powers could be assigned to provincial governments, and that these will not render sufficient revenue to finance the expenditure which the governments will have to incur in order to carry out their powers and functions effectively;
 - (ii) because most major taxes would be imposed by the national government and revenues collected nationally, each province is entitled to a fair share of the revenues so collected to fund its legitimate expenditure;
 - (iii) there is a national responsibility to distribute a portion of nationally collected revenues to the provinces in an equitable manner that will put each province in a position to provide the public goods and services for which the provincial level of government is responsible, subject to certain conditions such as the effective and efficient exploitation of the provinces' own tax bases and the effective, efficient and accountable expenditure of provincial revenues;
 - (iv) a portion of the total allocations to provincial governments could be in the form of conditional allocations to finance activities which are deemed to be in the national interest. (Such allocations may also be differentiated according to the ability of provinces to contribute towards such activities from their own resources.);
 - (v) while a portion of the allocations referred to in (iii) and (iv) above should be aimed at addressing disparities among provinces (i.e. for the broad purposes of 'equalisation'), there is no perfect or uncontested method for determining such allocations. There must, however, be a manifest concern to ensure fairness. At the same time, wealthier provinces which generate most of the country's wealth

should not be deprived of income needed to sustain and develop their economies, since to harm that could ultimately be detrimental to all;

- (vi) there are circumstances in which all levels of government should be allowed to borrow, namely for capital expenditure (which will also benefit future taxpayers, who should consequently pay their fair share of the capital costs), or to afford temporary relief if the revenue of a government drops to an extent which jeopardises the continuation of essential normal services. It is acceptable that the national government should regulate borrowing on the part of sub-national levels of government both in the interest of the national economy, and to dispel any misplaced expectations that (even in the absence of specific guarantees of loans) the national government will bail out sub-national levels of governments unable to meet their debt commitments. In order to enhance fiscal and financial discipline in regard to borrowing, access to financial markets by sub-national governments should not be distorted by instruments (e.g. subsidies) or mechanisms (e.g. special financial institutions) which could be detrimental to such discipline;
- (vii) the Constitution should contain only the framework for financial and fiscal relations between the levels of government. The detail should be dealt with in other laws. However, such laws should provide for as much predictability as is feasible concerning the amount of allocations to other levels of government, so that the recipient governments will be able to formulate plans and budgets on a multi-year basis;
- (viii) central government's allocations to local authorities should in general be channelled through provincial governments, but there might be circumstances in which the implementation of central government programmes may justify direct specific allocations to local governments; and
- (ix) there is a need for an impartial institution like the Financial and Fiscal Commission, independent of the executive branch of government, with expertise to advise on the equitable allocation, among all tiers of government, of revenues collected nationally.

3.3 The Commission assessed the appropriateness of the interim constitutional provisions in the light of the abovementioned considerations, *inter alia*, and the Constitutional Principles in order to formulate its recommendations enumerated below.

3.4 Provinces' share of revenue collected nationally

3.4.1 Section 155 of the interim Constitution provides that a province shall be entitled to an equitable share of revenue collected nationally to enable it to exercise and

perform its powers and functions. Section 155 then goes on to specify how such a share should be constituted, namely -

- (a) a percentage, fixed by an Act of Parliament, of income tax on individuals, Value-added tax or other sales tax, and any national levy on the sale of fuel;
- (b) transfer duty on the acquisition, sale or transfer of any property (presumably fixed property) situated within the province concerned; and
- (c) conditional or unconditional allocations out of national revenue to a province.

An Act to provide for the abovementioned percentages shall be passed by the National Assembly and the Senate sitting separately. Reasonableness is required in fixing the percentages and conditions for allocations in respect of the different provinces after taking into account the national interest and the recommendations of the Financial and Fiscal Commission (FFC). The determination of both conditional and unconditional allocations is subject to considerations relating to interest and other payments in respect of the national debt, the fiscal capacities and performance, efficiency of utilisation of revenue, needs and economic disparities within and between provinces, development needs, administrative responsibilities and other legitimate interests as well as other objective criteria identified by the FFC, the legitimate needs and interests of the national government and the recommendations of the FFC.

- 3.4.2 As far as the revenue sharing provisions (Section 155(2) (a) to (c) and the entitlement to transfer duty are concerned, the Commission is of the opinion that the provisions of the interim Constitution should be retained. It would be unwise to fix percentages in the Constitution because many circumstances could arise requiring the percentages to be changed from time to time and this might then necessitate continual amendments of the Constitution. Such matters should be dealt with in ordinary laws, subject to the principle of reasonableness and on the advice of an independent institution such as the FFC. The determination of such percentages by Acts of Parliament should be after consultation with the provinces and organised local government, and should generally be determined on a continuous (overlapping) multi-year basis in order to provide provinces with a significant measure of predictability with regard to revenues. On the other hand, on the grounds of reasonableness and legitimate provincial autonomy (CP XX), the Commission is of the opinion that the right of the provinces to receive either percentages or all of the respective taxes enumerated in the section, should not be diminished in the new Constitution. It could also be argued that the omission of such entitlements from the new Constitution would negatively affect the powers and functions of the provinces and therefore conflict with CP XVIII:2

The Commission therefore recommends that the Provisions of section 155 (1) to 155 (3) or similar provisions should be incorporated into the new Constitution, with the addition that provision should be made for consultation with the Provinces and organised local Government as suggested above; and that the fixing of percentages should as far as possible be on a multi-year basis.

- 3.4.3 In regard to other conditional or unconditional allocations, section 155 (4) of the interim Constitution requires Parliament to take into account a considerable number of matters, some of which are not easily quantifiable and are difficult to assess reliably as between provinces, such as fiscal performance, efficiency in the utilisation of revenues, developmental needs, etc. This places an onus on Parliament to specifically consider each of the elements mentioned in the subsection, and subjects the resulting discussions and Acts to possible review by the Constitutional Court if all are not manifestly addressed before the law is passed. In some countries, such as the United States of America, the constitution is silent on such matters. In others, like Canada, the commitment in the constitution to make grants is purposely vague. The Canadian constitution merely states that "Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation".

The Commission is of the opinion that section 155 (4) should be replaced by a new subsection which in essence contains a similar general commitment towards the principle of equalisation. Provincial interests could be expressed most appropriately through the provinces' representatives in the second chamber (see CPG document 4) in the legislative process, and through the FFC in the administrative process. The Commission recommends that the new equivalent of section 155 (4) should read as follows -

- (4) Allocations referred to in subsection 2 (e) shall be determined in accordance with an Act of Parliament, with due regard to the national interest and after taking into account -
 - (a) the recommendations of the Financial and Fiscal Commission, and
 - (b) the sufficiency of revenues of provincial governments to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.'

3.5 Levying of taxes by provinces

3.5.1 Section 156 of the interim Constitution empowers provincial legislatures to raise taxes, levies and duties, other than income tax or value-added or other sales tax, subject to authorisation in an Act of Parliament. Such taxes should not

detrimentally affect national economic policies, inter-provincial commerce or the national mobility of goods, services, capital or labour. In terms of CP XVIII.2 this power may not be substantially less or inferior in the new Constitution. Provincial legislatures must therefore be empowered in the new Constitution to impose any tax other than income, value-added or other sales tax within their areas of Jurisdiction subject to the above-mentioned limitation. Provinces may also impose surcharges on taxes (presumably both national and local), provided they are authorised to do so by an Act of Parliament and that there is no discrimination against non-resident South African citizens. There are sound economic reasons why Parliament should specifically have to authorise the imposition of surcharges on taxes which fall within its exclusive powers, such as income tax and value added tax, e.g. in order to limit the possible negative effects of high provincial surcharges on the national economy. This power of provincial legislatures will have to be retained in view of CP XVIII.2. However, the Commission is of the opinion that the levying of a surcharge on local government taxes could not have been intended in section 156 (1) and that greater clarity in this regard should be provided in the new Constitutional text.

- 3.5.2 Section 156 (1 B) vests provincial legislatures with the exclusive competence to impose taxes, levies and duties, (excluding income tax, value-added or other sales tax) on casinos, gambling, wagering, lotteries and betting. This competence should be included in the new Constitution in view of CP XVIII.2.
- 3.5.3 Section 156 (2) provides that provincial legislatures shall not be entitled to levy taxes detrimentally affecting national economic policies, inter-provincial commerce or the national mobility of goods, services, capital and labour. The Commission considers it necessary that this limitation should continue to be applicable in the new Constitution in the national interest. However, other levies and duties imposed by provincial legislatures could also have such detrimental effect and should be included in the relevant limiting provisions of the new Constitution.
- 3.5.4 Section 156 (3) empowers provincial legislatures to enact legislation authorising the imposition of user charges, subject to consideration of recommendations by the FFC concerning the criteria according to which such charges should be determined and further subject to there being no discrimination against non-resident South African citizens. In the Commission's view it would be sensible to continue to apply objective criteria for the imposition of user charges and to forbid discrimination against South Africans not resident in the particular province. However, the provision in section 156(3)(a) requiring a recommendation by the FFC for every enactment which imposes a user charge may prove to be too cumbersome. A provision requiring the FFC to recommend general guidelines which will be applicable to all such enactments would be more appropriate and practical. Because user charges should be a legitimate source of revenue for provinces, similar

provisions should be incorporated into the new Constitution in view of CP XVIII.2. subject to the abovementioned amendment relating to the role of the FFC.

3.6 Raising of loans by provinces

The empowerment of provinces to raise loans was addressed in paragraph 3.2 (vi) above. Section 157 (1) appears to address both the needs and the concerns in regard to borrowing powers for provinces.

Section 157(3) provides that a province may not guarantee a loan unless the FFC has verified the need for a guarantee and recommended that it be given.

The Commission is of the opinion that the restraints on the borrowing power of provinces are necessary and adequately dealt with in the present section and recommends that similar provisions be incorporated into the new Constitution. It could prove to be too cumbersome for the FFC to verify the need for a guarantee in each individual case. The Commission recommends that the FFC be required to provide only general guidelines for the guaranteeing of loans by provinces.

3.7 Provincial Revenue Funds

Section 159 provides for the establishment of a Provincial Revenue Fund in each province, the payment of all provincial revenues and allocations into such Fund and the withdrawal of money from the Fund only by virtue of an appropriation made in accordance with a law of the provincial legislature concerned. The Commission recommends that similar provisions be incorporated into the new Constitution.

3.8 Procurement administration

The proper management of the procurement of goods and services for any level of government is extremely important in order to guard against corruption, inefficiency and wastefulness. The Commission is of the opinion, therefore, that the new Constitution needs to contain provisions providing for orderly procurement management for goods and services at all levels of government. Section 187 of the interim Constitution stipulates that such procurement shall be regulated by an Act of Parliament and provincial laws, provides for independent and impartial tender boards and for a fair, public and competitive tendering system. The provisions appear to regulate state procurement of goods and services adequately and the Commission recommends that similar Provisions should be included in the new Constitution.

3.9 Guarantees by national government section 188 of the interim Constitution prohibits the guarantee of provincial and local government loans by the national government unless the guarantee complies with norms and conditions set out in an Act of Parliament and the FFC has made a recommendation to that effect. The

Commission recommends that similar provisions be incorporated into the new Constitution.

3.1 0 Powers and functions of the Auditor-General

3.10.1 Section 193 of the interim Constitution requires the Auditor-General to audit and report on all the accounts and financial statements of accounting officers at national and provincial levels of government and of all other persons in the national and provincial public services entrusted with public assets, trust property and other assets. Similar provisions apply in respect of local governments, boards, parastatals, etc. The Auditor-General may also conduct performance audits at the request of the President. Other provisions relate to process, including his reporting to Parliament on the accounts examined by him and the duty to make such reports public after the expiry of 14 days from the date of their submission.

3.10.2 The power of the Auditor-General appointed by Parliament to audit accounts at all three levels of government is considered to be of the utmost importance to assure accountability for the collection and expenditure of government revenues. His authorisation to conduct performance audits at the request of the State President is equally important to ensure the effective and efficient spending of revenues. The Commission recommends that similar provisions be incorporated into the new Constitution.

3.11 Financial and Fiscal Commission

3.11.1 Section 198 of interim Constitution establishes the present Financial and Fiscal Commission. Section 199 stipulates that its objects and functions 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 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-

- (a) financial and fiscal policies;
- (b) equitable financial and fiscal allocations to the national, provincial and local governments from revenue collected at national level;
- (c) taxes, levies, imposts and surcharges that a provincial government intends to levy;

- (d) the raising of loans by a provincial or local government and the financial norms applicable thereto;
- (e) criteria for the allocation of financial and fiscal resources; and
- (f) any other matter assigned to the Commission by this Constitution or any other law.

In performing its functions the Commission shall take into consideration, inter alia, the provisions of section 1 55 (4) (b) and other provision of the interim Constitution."

3.11.2 From what has been noted in paragraph 3.2 and succeeding paragraphs, it is clear that the financial and fiscal relations between levels of government in any state are complex.

Two sharply contrasting views may be taken of the appropriate role and function of a body such as the FFC. On the one hand, it may be seen as a negotiating forum; on the other, as an independent and impartial body.

In the opinion of the CPG, a body with responsibilities such as those of the FFC, as envisaged in the interim Constitution, should be impartial and independent of the executive and administrative structures of government. It should command the expertise necessary to fulfil its functions judiciously and to secure credibility and respect for its recommendations, particularly at the second and third levels of government. It should be able to take the long view in the national interest. There should be provision for a reasonable degree of continuity in its membership. Its size and modus operandi should be conducive to efficiency and coherence. At the same time, however, the requirements of transparency in its operations and representivity in its composition must be taken into account.

3.11.3 Constitutional Principle XXVII compels the Constitutional Assembly to include provisions relating to a Financial and Fiscal Commission in the new Constitution. The Commission is of the opinion that even if the provisions of this Principle were not so compelling, it would have been in the national interest to protect the institution and role of the FFC in the new Constitution. It therefore recommends that provisions similar to those contained in sections 198 and 199 be incorporated into the new Constitution.

3.11.4 Some doubt has been expressed whether the composition of the FFC should be prescribed in the Constitution itself or in a separate Act of Parliament. The Commission is of the opinion that the FFC's role in intergovernmental relations is so important that some matters besides those contained in sections 198 and 199 should be incorporated into the new Constitution. Furthermore CP XXVII requires that

the representation of each province in the FFC should be addressed in the new Constitution.

- 3.11.5 The method for the appointment of members should be provided for in the Constitution in order to guarantee the continued independence, impartiality and acceptability of a body that has such an important (and probably unpopular) role to play in an area of intergovernmental relations which is fraught with contention. In terms of section 199 the FFC must advise and make recommendations to the relevant legislative authorities. In order that its advice and recommendations may enjoy their respect, at least, if not their unqualified support in all cases, the FFC needs to be acceptable to all levels of government. The Commission is of the opinion, therefore, that the members of the FFC should be appointed by the President from nominations by national and provincial governments and a representative local government forum.
- 3.11.6 At present the FFC consists of a chairperson and deputy chairperson and another seven members (at least one of whom shall have expertise in local government finance), all appointed by the President either in consultation with or on the advice of the Cabinet; and nine other members, with each of the provinces' Executive Councils designating one of these, who are then appointed by the President (section 200 (1)). Only the chairperson and deputy chairperson are full-time members. They are appointed for a period of five years. Other members of the FFC are appointed for a period of only two years, but are eligible for re-appointment. The large number of members makes the FFC cumbersome. This could also hamper its effectiveness in the long run, because of the large proportion of part-time members appointed for short terms, and possibly representing divergent interests. Its present composition could obviously make it difficult for the FFC to reach consensus or even to obtain the two-thirds majority required for decisions (section 201 (3)), should each provincial representative seek to obtain the most favourable treatment for his or her province -or else risk incurring the province's displeasure. Provincial representatives would appear to be in an invidious position, since section 201 (7) requires members of the FFC to act impartially and independently. It can be foreseen that the FFC members might find themselves engaged in inter-provincial negotiations on allocations, which could be dealt with more effectively, and more properly, in a different forum.
- 3.11.7 CP XXVII stipulates that each province shall be represented in the FFC, but does not specify that each should have a separate representative. In the Commission's view, the FFC could function more effectively if it were to be comprised of a smaller number of members though still commanding sufficient expertise to deal with its complex tasks.

There is, however, some uncertainty about the interpretation of CP XXVII. Furthermore, the CPG is aware that both the provinces and local government

have a clear interest in their having direct access to the FFC, in the determination of percentages of revenue sharing. Strong arguments have also been advanced (in workshops organised by the CPG, and elsewhere) that the representation of local government on the FFC should be expanded significantly, relative to that of the provinces. These considerations must be set against the case for reducing the FFC's membership in the interests of efficiency and effectiveness.

To address these different sets of concerns, the CPG consequently recommends that the FFC structure should consist of two chambers:

- (a) the “core” FFC, and
- (b) a plenary chamber.

3.11.8 The "core" FFC. In accordance with the considerations set out at 3.11.2 above, the Commission would recommend that the FFC consist of seven members altogether. A chairperson should be appointed by the President. The six other members should be appointed as follows: 2 nominated by the national government, 2 by the provinces jointly, and 2 by a constituent body from local government. The nominations could be made from panels of suitably qualified and experienced persons for each of the three tiers of government. The persons so appointed to the FFC would be expected to act fairly and impartially and should not be regarded as representatives of particular interests.

To enhance the perception of the FFC as an independent and impartial body, and strengthen its ability to act in an equitable manner, its chairperson should manifestly possess qualities consonant with these requirements. Consideration should be given to appointing as its chairperson an eminent individual with a judicial background (such as a judge, or a retired judge).

The FFC should be provided with staff commanding the requisite experience and ability to undertake preparatory work for the Commission. If this is done, it might not be necessary to have any full-time members on the Commission. However, the CPG is of the opinion that this is not a matter for the Constitution but rather for an Act of Parliament, and even this should not be too prescriptive since the long-term needs of the FFC can only be established in the light of experience.

3.11.9 The plenary chamber of the FFC. Such a chamber could comprise the following elements:

- (a) a representative of each province,
- (b) a representative of local government in each province,
- (c) representatives of the national government, up to a maximum of nine, and
- (d) members of the "core" FFC.

This chamber would be a forum in which revenue allocations could be negotiated, in an attempt to reach consensus on the percentages to be allocated to provinces and local government, and on how these should be distributed among the provinces. If consensus cannot be reached, the "core" FFC will then have to formulate recommendations to the national government, which in turn will have to consult provincial governments (in terms of the recommendation at 3.4.2 above) before embodying these in an Act of Parliament.

- 3.11.10 As far as the further distribution of revenue to local governments is concerned, the CPG recommends that provinces should institute provincial negotiating forums, comprising representatives of the province and its local governments, to make recommendations on the allocations to each local government. It would be virtually impossible for one central body such as the FFC to deal with the detail of distribution among local authorities.
- 3.11.11 The "core" FFC should deal with all other matters assigned to the FFC by the Constitution or by Acts of Parliament. Interested parties should be able to make submissions on such matters to the FFC, and to present their views to it in an open forum.
- 3.11.12 It would be desirable to establish broad principles for the operation of the FFC, inter alia to foster transparency, to provide for interaction with interested parties in making their views known to it, and to ensure that reporting is done fairly, clearly, and comprehensively.
- 3.11.13 The Commission is of the opinion that the new Constitution need contain provisions regarding only the general composition of the FFC. Details on the method of selection of members and other procedural matters could perhaps be dealt with more appropriately in an Act of Parliament. It is to be expected that the provisions in any such Act would be formulated after consultation with provincial governments and organised local government.

COMMISSION ON PROVINCIAL GOVERNMENT