

2/4/6/4/3/28



CONSTITUTIONAL ASSEMBLY

MEMORANDUM

To: TC6.2 Members
From: Pat Fahrenfort
Date: 7 August 1995
Subject: Financial and Fiscal Commission (FFC)

Attached are documentation for the discussion at today's meeting (7 August 1995 in V475 at 15h00) on the FFC.

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THE NEW CONSTITUTION

MEMORANDUM

PAGE ONE OF THIRTY THREE

TO: DR. R. DAVIES
CHAIRPERSON
CONSTITUTIONAL ASSEMBLY THEME COMMITTEE 6.2

FROM: MR. C.D.R. RUSTOMJEE
TECHNICAL ADVISOR
CA THEME COMMITTEE 6.2

SUBJECT: REPORT ON SUBMISSIONS CONCERNING THE FINANCIAL
AND FISCAL COMMISSION

DATE: 5 AUGUST 1995.

Dear Dr. Davies

1. Kindly find attached a report summarising submissions received in respect of the Financial and Fiscal Commission (FFC), as required by Theme Committee 6.2..
2. Kindly note that the report has been confined to the FFC and has not dealt with Inter-governmental fiscal relations, which I understand is the subject of deliberation in Theme Committee 3.
3. Two reports have been compiled. Firstly a summary of the comments gleaned from each political party, organisation and individual submission in respect of the FFC. This follows the format of previous presentations by myself to the Theme Committee.

Secondly a report in the format required by the Constitutional Assembly. Please note that this second report has been compiled after reviewing the first (summary) report and represents my sense (and not the Theme Committee's final decision) of where consensus, contention and further clarity lie, with respect to the FFC. The report has been prepared at the Theme Committee's request.

4. Perusal of the second report suggests that very considerable consensus exists within the Theme Committee on the subject of the FFC. Several matters are reflected in the second report as requiring "clarification" simply because they await deliberation by the Theme Committee. Finalisation of these deliberations may yield a report containing very considerable consensus.

5. A wide range of individuals submitted comments on the FFC. For the sake of conciseness, only in the instances in which comments departed considerably from those represented by any of the political parties and other organisations whose views are reflected in the attached reports, have individual comments been included in the above.

6. A copy of the diskette containing the above reports can be made available to the Secretariat for compilation of the final report which is to be submitted to the Constitutional Committee.

Yours sincerely

C. D. R. Rustomjee
C.D.R. RUSTOMJEE
Technical Advisor.

FINANCIAL & FISCAL COMMISSION	CONSENSUS	CONTENTION	FURTHER CLARITY
<u>1. General Aspects</u>	<p>There is consensus on the need to establish an independent and impartial FFC.</p> <p><i>required to do the key commit principle 27</i></p>	<p>There is minor contention on the extent to which the provisions in Sections 198 - 206 should be included in the Constitution rather than in subsidiary legislation. The ANC motivates that broad principles should be retained in the Constitution and details left to subsidiary legislation. Further clarity may result in consensus.</p>	
<u>2. Section 198</u>	<p>Consensus on the need to establish the FFC.</p>		
<u>3. Section 199(1) - Financial and Fiscal Policies</u>	<p>Consensus on Section 199(1)(a)</p>		<p><i>ask Rob</i></p>
<u>4. S199(1)(b) - Equitable Financial and fiscal allocations to the national, provincial and local governments from revenue collected at national level.</u>	<p>Consensus on S199(1)(b)</p> <p style="text-align: right;"><i>✓</i></p>		<p>The ANC requires the term revenue collected at national level to be clarified and motivates a specific interpretation of this term.</p> <p style="text-align: right;"><i>✓</i></p>
<u>5. S199(1)(c) - Taxes, levies, imposts and surcharges that a provincial government intends to levy</u>	<p>Consensus subject to clarity needed by ANC, subject to agreement by other parties on ANC proposal on correspondence of local and provincial governments' taxation and borrowing powers.</p>		<p>ANC proposes rephrasing to remove the distinction between different forms of taxation. ANC also argues that local and provincial governments' powers of taxation and borrowing should be similar.</p>
<u>6. S199(1)(d) - Raising of loans by Provincial or local government and the financial norms applicable thereto</u>	<p>ANC the PR should have to be in borrowing be included in the role of borrowing</p> <p><i>Consensus</i></p>		<p>Consensus or contention depending on other parties' acceptance or otherwise of NP proposal that the three tiers may not borrow to finance current expenditure.</p>

on the intention of

<u>FINANCIAL AND FISCAL COMMISSION</u>	<u>CONSENSUS</u>	<u>CONTENTION</u>	<u>FURTHER CLARITY</u>
<u>Section 199(1)(e)</u>	Consensus on wording of Section 199(1)(e) ✓		
<u>Section 199(1)(f)</u>	Consensus ✓		
<u>Section 199(2)</u>	Consensus <i>and refers to local</i> *		
<u>Section 200(1) - Membership of FFC</u>	✓		Various suggestions on the membership, tenor of office, skills requirements of the members of the FFC. Consensus may be able to be achieved after discussion by the Theme Committee. Note that the Commission for Provincial Government has proposed a two-tier FFC, which proposal if accepted will require significant change to the current provisions.
<u>Section 200(2)</u>	Probable consensus on DP position that the clause should be deleted.		
<u>Section 200(3)</u>	✓		See comments as per Section 200(1) above.
<u>Section 200(4)</u>			Await Theme Committee decision on DP proposal.
<u>Section 200(5)</u>	Consensus		<i>See comments on Section 200(1) above</i>
<u>Section 200(6)</u>			Await Theme Committee decision on proposals by DP and by FF
<u>Section 200(7)</u>	Consensus		
<u>Section 200(8)</u>			Await Theme Committee decision on DP proposal.
<u>Section 200(9)</u>	Consensus ✓		
<u>Section 200(10)</u>	Consensus		

5,7,8,9 legislation

See DP proposal in this regard

DP proposal
see

for legislation
Constitution or
legislation?

<u>FINANCIAL AND FISCAL COMMISSION</u>	<u>CONSENSUS</u>	<u>CONTENTION</u>	<u>FURTHER CLARITY</u>
<u>Section 200(11)</u>			Await Theme Committee decision on DP proposal.
<u>Sections 201 (1) - (4)</u>	Consensus	See Rob	
<u>Proposed New Section 201(5)</u> <i>Mtg shd be held in public</i>	<i>await decision on FF proposal</i> public		Await Theme Committee decision on FF proposal.
<u>Sections 202 (1) - (4)</u>			Consensus, subject to Theme Committee's decisions on DP and FF proposals.
<u>Section 203</u> <i>Cooptation</i>			Await Theme Committee decision on ANC proposal. <i>DP proposal</i>
<u>Section 204</u>			Await Theme Committee decision on ANC proposal.
<u>Sections 205 (1) - (2)</u>			Await Theme Committee decision on DP proposal.
<u>Section 206</u>	Consensus		<i>Parties discuss on this matter and yes decision</i>
<u>Proposed New Sections</u>		see Rob	Await Theme Committee decisions on proposals by ANC, NP and ACDP.

ANC, NP legislation
 DP in form of similar clause
 → ANC + NP = legislation

ANC, NP = legislation
 See DP Submission

ANC, NP legislation
 →

Filename:- CAFFSUMM

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<p><u>General overall comments on Sections 198 - 206</u></p>	<p>1. "The ANC is of the view that many of the broad principles contained in Sections 198 to 206 of the Interim Constitution should be carried into the final constitution, but consider much of the detail included in these sections should be dealt with in national legislation rather than the constitution".</p> <p>2. "The provisions for meetings, remuneration, co-optation and length of office that are covered by Sections 200 to 206 of the Interim Constitution shall be provided for in national legislation"</p> <p>3. "At present there is considerable lack of clarity in the wording of the applicable sections of the Interim Constitution".</p>	<p>1. The NP is of the opinion that the Constitution should provide for the FFC, in much the same way as outlined in the Interim Constitution. The NP furthermore proposes that experts on local authority finances should gain greater representation on the Commission.</p> <p>2. The National Party is ... broadly supportive of the tax revenue sharing model as outlined in Section 155 of the Interim Constitution - read in conjunction with S199.</p>			<p>"The primary purpose of the FFC is to make recommendations on equitable financial and fiscal allocations between different levels of government."</p> <p>"The FFC should be composed of suitably qualified persons who fulfil their functions as technical experts impartially and independently rather than as political representatives".</p>

Filename:- CAFFC5

1/11/2014
 THE NATIONAL REVENUE FUND (NRF)

NATIONAL REVENUE FUND	ANC	NP	IFP	DP	FF	PAC	ACDP
<u>Section 185(1):</u>			<p>"Section 185 of the Interim Constitution is acceptable, with the exception it shall be specified that all transfers from the national government and national revenues allocated to Provinces are to be paid directly into the relevant Provincial Revenue Funds (compare with section 159 of the interim Constitution).</p> <p>The finalisation of this item necessitates finality on the distribution of nationally collected revenues to Provinces and on provincial powers in fiscal and financial matters".</p>			A	
<u>Section 185(2):-</u>						A	

Filename NRF1

NATIONAL REVENUE FUND	SACP	CP	SACOB	COSAB	TRANSNET
<u>Section 185(1):</u>		See comments under General section	<p>"All monies raised by the Central Government be paid into the National Revenue Fund unless a specific Act of Parliament creates a dedicated fund into which monies collected under such an Act are to be paid and disbursed from".</p> <p>See additional comments under General section.</p>	<p>"We agree in principle with the provisions contained in Sections 185 and 186 of the Interim Constitution, i.e. that all revenues be paid into a fund from which monies may not be withdrawn unless such expenditure has been authorised by an Act of Parliament (section 185) and that the budget must be laid before parliament each year.</p> <p>The final Constitution should therefore incorporate the following principles which are found in most modern Constitutions:-</p> <ul style="list-style-type: none"> - All monies raised and received shall be paid into and form the National Revenue Fund unless a specific Act of Parliament creates a specific fund into which monies collected under such Act are to be paid; - Monies may only be withdrawn from this fund for expenditure which has been budgeted by Parliament, i.e. by means of an Appropriation Act; - Provision can be made for interim budgets in the form of Supplementary Appropriation Bills if it is necessary to incur expenditure which has not been provided for in the budget. 	
<u>Section 185(2)</u>		See comments under General section.	<p>"Monies may only be disbursed from the NRF for expenditure budgeted for and approved by Parliament by means of an Appropriation or Supplementary Appropriation Act"</p> <p>See additional comments under General section.</p>		



FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	COMMISSION ON PROVINCIAL GOVERNMENT
<p><u>General overall comments on Sections 198 - 206</u></p>	<p>A special tax system should be devised which is compatible to the status of a given region and which corresponds co-efficiently to a tax structure on a national scale.</p> <p>What is required is that finance and fiscal policy be based on simplicity, stability, equity and efficiency, through a process of community or regional consultation.</p> <p>The foundation for effective financial and fiscal discipline is proportional, to the say people have ;in where and how their taxes are being utilised.</p> <p style="text-align: center;">✓</p>	<p>The FFC should be given Constitutional recognition, but only when the relationship(s) between the three levels of government are clearly delineated and resolved. This does not mean that the Constitution should contain provisions setting out the functions of the different levels of government but only a framework of those functions. This stems from the central belief in the PAC that the Provinces and Local government structures should only have administrative powers and nothing else.</p> <p>The PAC is of the view that the budget allocation must be administered by the Central government wherein the FFC will be fully consulted in order for the above objective to be fulfilled.</p> <p style="text-align: center;">✓</p>	<p>The FFC consists overwhelmingly of ANC supporters and ANC policy will be recommended by the Commission. The CP accordingly does not see any utility in the FFC. If government is serious about this, skilled people should be co-opted to run the Commission. If not the FFC will again be a bureaucratic institution (NB:- TRANSLATED FROM AFRIKAANS - WORDING SUBJECT TO CORRECTION).</p>		<p>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.</p> <p>There is a need for an impartial institution like the FFC, independent of the executive branch of government, with expertise to advise on the equitable allocation, among all tiers of government, of revenues collected nationally.</p> <p>The CPG recommends that provisions similar to those contained in sections 198 and 199 be incorporated in the new Constitution.</p> <p>The CPG 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.</p>

Filename:- CAFFC6

FINANCIAL & FISCAL COMMISSION	COSATU	Advocate J. Brand	C.S. Friedman (Economist)	Johan G. Mpetha	
<p><u>Comments on Sections 198 - 206 from other organisations and individuals.</u></p>	<p>A FFC broadly representative of society shall be established to advise government of the apportionment of revenue to the provinces. Its functions should be broadly similar to the existing FFC.</p> <p>National government shall not guarantee loans by Provincial and Local Government unless the FFC confirms that such loans comply with national norms as set out in an Act of Parliament.</p> <p>Revenue collection should be national and allocation to provinces should be based on equity considerations.</p> <p>The Constitution should not be too detailed or prescriptive in determining the functioning of the FFC.</p>	<p>The method of selection of members of the FFC and other procedural matters relating to the FFC should be dealt with in an Act of Parliament. Reasonable representation by provinces in the selection process and on the actual Financial and Fiscal Committee should be provided for in such an act.</p>	<p>Provinces should be able to levy taxes, but only a small percentage over national income tax or VAT levels. Provincial taxes must only be used for the benefit of provincial taxpayers (not to pad provincial governments' salary or current expenditure) and provinces must provide annual reports to show the public where their tax money has gone.</p> <p>The borrowing powers of provincial and local authorities should only be done on a project or organisation basis.</p>	<p>The FFC:- its composition should be as follows:- 4 members appointed by Finance Minister; 4 members appointed by State President; 4 members appointed by big business.</p>	

FINANCIAL & FISCAL COMMISSION	DEVELOPMENT BANK OF SOUTH AFRICA	SACOB	COSAB
<p><u>Comments on Sections 198 - 206 from other organisations and individuals.</u></p>	<p>...the constitutionally established FFC (Section 198) [is] an immensely important link in the overall operation of the constitutional structure...</p> <p>Sections 200 - 205 can be considerably shortened and refocused in the new Constitution . Except for the composition of the FFC, section 200(1), the focus of the interim Constitution should shift from an emphasis on structures to ensuring the impartiality, integrity, objectivity and professional competence of the FFC. This could be done through establishing eligibility criteria for members eg. those in section 200(3 to 10) as well as through establishing principles for operation.</p> <p>Current constitutional proposals regarding its meetings; establishment of committees; cooption of persons by committees; terms of office of members and officials; remuneration and conditions of service of members and other persons; appointment of staff; and other relevant matters, could be allowed for statutorily rather than constitutionally.</p> <p>The DBSA subscribes to the principle that finance should follow expenditure function. It is proposed that section 199(1 or 2) be amended to include an in-principle statement on such functional criteria that should serve as a framework for the FFC's advice and recommendations regarding the financial and fiscal requirements of the different tiers of government. The details of such a framework and criteria should, however, be dealt with in separate legislation.</p> <p>Furthermore it is proposed that section 199... be extended to provide for the FFC to play a facilitating role regarding inter-governmental fiscal/financial relations.</p>	<p>SACOB urges that additional provisions be included in the Constitution to require the government to:</p> <ul style="list-style-type: none"> - publish all report of the FFC; and - provide detailed reasons for their decisions to accept and/or reject the recommendations of the Commission. <p>The brief described in Section 199(1) ... needs to be linked to the brief to recommend equitable allocations in section 199(1)(b). Section 199(1)(e) would appear to be meaningless in its current context.</p> <p>[Sections 199 & 200]:- ... SACOB believes that similar provisions be made in the final constitution with due regard to the dynamics involved in developing a new fiscal order over time.</p> <p>SACOB would suggest that the terms of office [of members] be lengthened to 4 years.</p> <p>SACOB believes that the imbalance in local government representation needs to be corrected.</p>	<p>The objects, functions, expertise and impartiality of this Commission have been provided for in sections 199 and 200 of the Interim Constitution and we recommend that similar provisions be retained in the final Constitution.</p> <p>In order to allow the Commission to function efficiently and to avoid a permanent polarisation between those members appointed by the central government and those appointed by the regions, we suggest that their term of office be lengthened to 5 years.</p> <p>We recommend that [the interest of local government] be given proper representation on the Commission in the same way as the first and second tiers of government.</p>

Filename:- CAFFC6B

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<u>Section 198</u> <u>Establishment</u>	"The Constitution should provide that the Financial and Fiscal Commission shall be an independent statutory body, composed of persons with knowledge, experience and expertise in the fields as defined in Section 200(3)(b) of the Interim Constitution." 				No change required. 

Filename CAFFC1

FINANCIAL & FISCAL COMMISSION	PAC	ACDP	CP	SACP <i>remove</i>	
<u>Section 198</u> <u>Establishment</u>	The FFC should be given a Constitutional recognition, but only when the relationship(s) between the three levels of government are clearly delineated and resolved.				

Filename CAFFC2

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<u>Section 199 Objects and Functions</u>	<p>"The provisions relating to the establishment, objects and functions of the Financial and Fiscal Commission in Section 198 to 199 of the Interim Constitution should be incorporated in the final constitution in abbreviated and revised form."</p>				<p>No change required.</p>
<u>Section 199(1)(a):- Financial and Fiscal Policies</u>	<p>"The Constitution should state clearly that the Financial and Fiscal Commission has advisory and mediatory powers which must be reflected in the procedures for drafting budgets and fiscal legislation."</p>				<p>No change required.</p>

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<p>Section 199(1)(b)</p> <p><u>Equitable Financial and fiscal allocations to the national, provincial and local governments from revenue collected at national level</u></p>	<p>"The reference to "equitable financial and fiscal allocations" leaves open to doubt whether the section refers exclusively to vertical equity or accommodates horizontal equity. It should refer to both"</p> <p>"Section 199(1)(b), which refers to revenue collected at national level, could mean one of the following:</p> <ul style="list-style-type: none"> - Revenue collected in the nation as a whole, ie: by all levels of government, or revenues collected by the national government, whether for its own account or as an agent on behalf of the other levels of government, or - revenues collected at the national level, including the shares of the taxes specified in Section 155, but excluding revenues collected on an agency basis on behalf of other jurisdictions, or - revenues collected at the national level, but excluding the specified shares of income tax, VAT and the fuel levy that has to go to the provinces and excluding revenues collected on an agency basis on behalf of other jurisdictions. The ANC submits that it should refer to the third definition." 				<p>No change required.</p>



FINANCIAL AND FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<p><u>Section 199(1)(c)</u> <u>Taxes, levies, imposts and surcharges that a provincial government intends to levy</u></p>	<p>1. "It is uncertain as to what distinction should be drawn between taxes, levies, imports and surcharges in Section 199(1)(c)". The ANC submits that an alternative phrasing to the effect that "any form of tax regardless of the name given to it" is more precise".</p> <p>2. "Section 178(2) states that local governments are "competent to levy and recover such property taxes, levies, fees, taxes and tariffs as may be necessary". Once again it is not possible to draw a clear distinction between these terms, but the implication is that local governments are not subject to the same constitutional restraints as provinces. These clauses should be consolidated into on coherent and consistent section with a formulation similar to the above proposed in Section 199(1)(c). Local government powers of taxation and borrowing should be correspondent to those of provincial governments."</p>				<p>No change required.</p>

FINANCIAL AND FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<p>Section 199(1)(d)</p> <p><u>The raising of loans by a provincial or local government and the financial norms applicable thereto</u></p>	<p>"Section 199(1)(d) speaks of the "raising of loans". The Financial and Fiscal Commission has submitted that this ought to cover any form of credit or advance to a provincial or local government or any agency owned or controlled by such a government. The ANC concurs in this regard".</p>	<p>The National Party proposes that the three tiers of government may not borrow to finance current expenditure.</p> <p>Borrowing by the Provinces, which may be in lieu of loans raised by the National Government, imposes demands on the South African Capital market and affects the general governments' total budget deficit before borrowing. It is therefore essential that the borrowings by the general government institutions shall be properly co-ordinated. The NP proposes that a Committee under the chairmanship of the Minister of Finance be established to co-ordinate the borrowing requirements of the general government which should also take into account the ability of the public sector bodies to service such debt. General government faces a possible debt trap and it is therefore essential that strict control should be exercised on its total loan requirements as well as the management of the debt of the three tiers of government.</p>			<p>No change required.</p>
<p>Section 199(1)(e)</p> <p><u>Criteria for the allocation of financial and fiscal resources</u></p>					<p>No change required.</p>
<p>Section 199(1)(f)</p> <p><u>Any other matter assigned to the Commission by this Constitution or any other law</u></p>					<p>No change required.</p>

Filename CAFFC7



FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	COMMISSION ON PROVINCIAL GOVERNMENT
<u>Section 199 Objects and Functions</u>					
<u>Section 199(1)(a):- Financial and Fiscal Policies</u>					
<u>Section 199(1)(b)</u> <u>Equitable Financial and fiscal allocations to the national, provincial and local governments from revenue collected at national level</u>					
<u>Section 199(1)(c)</u> <u>Taxes, levies, imposts and surcharges that a provincial government intends to levy</u>					
<u>Section 199(1)(d)</u> <u>The raising of loans by a provincial or local government and the financial norms applicable thereto</u>					There are circumstances in which all levels of government should be allowed to borrow, namely for capital expenditure ... 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... the national government will bail out sub-national levels of government 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 (eg: subsidies) or mechanisms (eg: special financial institutions) which could be detrimental to such discipline.

FINANCIAL AND FISCAL COMMISSION	ACDP	PAC	CP	SACP	COMMISSION ON PROVINCIAL GOVERNMENT
<u>Section 199(1)(e)</u> <u>Criteria for the allocation of financial and fiscal resources</u>					
<u>Section 199(1)(f)</u> <u>Any other matter assigned to the Commission by this Constitution or any other law</u>					

Filename CAFFC8

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	<u>DP</u>
Section 199(2) Provisions of S155(4)(b) & any other Constitutional Provisions					No change required

Filename CAFFC3

FINANCIAL & FISCAL COMMISSION	PAC	ACDP	CP	SACP	
Section 199(2) Provisions of S155(4)(b) & any other Constitutional Provisions					

Filename CAFFC4

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<p>Section 200 (1) Membership of FFC</p>	<p>1. "The Constitution should provide that members of the Commission shall be appointed by the President in consultation with both the Cabinet and a cooperative council composed of representatives of the Executive Committees of the provinces, provided that if representatives of provinces in which the largest majority party is different from that in the National Assembly are dissatisfied with the composition of the Financial and Fiscal Commission as it emerges from this process, they may nominate persons of their own choice that meet the requirements in terms of expertise, in accordance with the number of seats in their provincial legislature as a proportion of the total number of seats in all provincial legislatures."</p> <p>2. While the constitution should specify the method of appointment [S200(1)] (and possibly also the method of impeachment) of commissioners to ensure their independence [S200(4)] national legislation should specify the number of members of the FFC, [S200(1)], their full-time or part-time status [S200(11)] and the manner of choosing a chair and deputy chair [S200(1)(a)], to allow for flexibility in terms of numbers and extent of participation and to take account of the experience of the present FFC and international practice."</p>		<p>S200(1)(a):- one of the Chairperson or Deputy-Chairperson must have knowledge of state finance.</p> <p>S200(1)(b):- these persons must have knowledge of Provincial financial affairs.</p> <p>S200(1)(c):- At least four of these members must have knowledge of local government financial affairs.</p>		<p>"The commission shall consist of:-</p> <p>(a) a judge or retired judge who shall be the chairperson appointed by the President after consultation with the Premiers</p> <p>(b) a person designated by the Minister responsible for national finance matters</p> <p>(c) a person designated jointly by the provinces</p> <p>(d) a person designated by a representative body of organised local government</p> <p>(e) a person designated by each of the Executive Councils of the provinces</p> <p>(f) a person designated by a representative local government body in each of the provinces</p> <p>(g) persons designated by the Cabinet, up to a maximum of nine."</p>

Note the items in square brackets [] are included by the Technical Advisor to cross-refer to existing paragraphs in the Interim Constitution.

Filename CAFFC9

FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	COMMISSION ON PROVINCIAL GOVERNMENT
<p><u>Section 200 (1)</u> <u>Membership of FFC</u></p>	"	<p>The PAC would submit that the composition of the Commission should draw representation from the Provinces, Local government structures and any other interested party.</p>			<p>The method of 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 ... role to play...</p> <p>The CPG is of the opinion... 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.</p> <p>The large number of members makes the FFC cumbersome... In the CPG'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.</p> <p>Strong arguments have also been advanced... that the representation of local government on the FFC should be expanded significantly, relative to that of the provinces.</p> <p>To address these different sets of concerns, the CPG consequently recommends that the FFC structure should consist of two chambers:-</p> <p>(i) The core FFC - 7 members - refer CPG document for full details.</p> <p>(ii) A Plenary Chamber - representatives from each province; a representative of local government in each province; a maximum of nine national government representatives and members of the core FFC.</p>

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<u>Section 200(2)</u> <u>First Appointment</u>					Delete.
<u>Section 200(3)</u> <u>Qualifications & Expertise</u>					No change required
<u>Section 200(4)</u> Removal from Office					The President should consult with the person or body who designated a member before removing such member. Also a message referred to in S200(4)(b) should also be sent to the person or body who designated such a member.
<u>Section 200(5)</u> Filling of Vacancies					No change required.
<u>Section 200(6)</u> <u>Tenor of Office</u>				The Chairperson and the Deputy-Chairperson must be appointed for a maximum of ten years. Ordinary members may serve for a maximum of ten years. If an ordinary member becomes a Deputy-Chairperson or Chairperson, that persons' total term, including their term as an ordinary member, shall not be more than 15 years.	Chairperson appointed for 5 years, other member for 3 years, but shall be eligible for re-appointment.

FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	
<u>Section 200(2)</u> First Appointment					
<u>Section 200(3)</u> Qualifications & Expertise					
<u>Section 200(4)</u> Removal from Office					
<u>Section 200(5)</u> Filling of Vacancies					
<u>Section 200(6)</u> Tenor of Office					

Filename CAFFC12

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<u>Section 200(7)</u> <u>Performance of Duties</u>					No change required.
<u>Section 200(8)</u> <u>Remuneration Outside of Official Duties</u>					The chairperson and those persons appointed in terms of S200(1)(b), (c) and (d) shall be full-time members of the Commission and not perform or commit himself or herself to perform remunerative work outside his or her official duties.
<u>Section 200(9)</u> <u>Holding of Political Office</u>					No change required.
<u>Section 200(10)</u> <u>Influencing Other Members</u>					No change required.
<u>Section 200(11)</u> <u>Role of Chairperson & Deputy Chairperson</u>					Amend to read:- The chairperson shall be the chief executive officer of the Commission.

Filename CAFFC13

FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	
<u>Section 200(7)</u> Performance of Duties					
<u>Section 200(8)</u> Remuneration Outside of Official Duties					
<u>Section 200(9)</u> Holding of Political Office					
<u>Section 200(10)</u> Influencing Other Members					
<u>Section 200(11)</u> Role of Chairperson & Deputy Chairperson					

Filename CAFFC14

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<u>Section 201</u> <u>Meetings of the Commission</u>					Essential content in order.
<u>Section 201(1)</u> <u>First Meeting & Absence of Chairperson & Deputy-Chairperson</u>					As above.
<u>Section 201(2)</u> <u>Quorum</u>					As above.
<u>Section 201(3)</u> <u>Decision by 2/3rds of Members Present</u>					As above
<u>Section 201(4)</u> <u>All Decisions Recorded</u>					As above.
<u>Proposed New Section 201(5)</u>				Meetings of the Commission are to be open to the public.	

Filename CAFFC15

FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	
<u>Section 201</u> <u>Meetings of the Commission</u>					
<u>Section 201(1)</u> <u>First Meeting & Absence of Chairperson & Deputy-Chairperson</u>					
<u>Section 201(2)</u> Quorum					
<u>Section 201(3)</u> Decision by 2/3rds of Members Present					
<u>Section 201(4)</u> All Decisions Recorded					

Filename CAFFC16

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<u>Section 202</u> <u>Committees</u>					Add: The members designated in terms of S200(1)(a), (b), (c) and (d) shall constitute an Executive Committee of the Commission.
<u>Section 202(1)</u> <u>Establishment</u>					
<u>Section 202(2)</u> Members Determined by Commission					
<u>Section 202(3)</u> Designation of Committee Chairperson					
<u>Section 202(4)</u> <u>Delegation of Commission's Powers to Committees</u>				Add to S200(4)(b):- the decision of a Committee with a two-thirds' majority can overrule the Commission.	

Filename CAFFC17

FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	
<u>Section 202</u> <u>Committees</u>					
<u>Section 202(1)</u> <u>Establishment</u>					
<u>Section 202(2)</u> Members Determined by Commission					
<u>Section 202(3)</u> Designation of Committee Chairperson					
<u>Section 202(4)</u> <u>Delegation of Commission's Powers to Committees</u>					

Filename CAFFC18

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
<u>Section 203</u> <u>Co-option of Persons by</u> <u>Committees</u>	"The provisions for meetings, remuneration, co-optation and length of office that are covered by Sections 200 to 206 of the Interim Constitution shall be provided for in national legislation."				No change required.
<u>Section 203(1)</u> <u>Committee can Co-opt Any Person</u>	As above				
<u>Section 203(2)</u> <u>Person Not Entitled to Vote</u>	As above.				

Filename CAFFC19

FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	
<u>Section 203</u> <u>Co-option of Persons by</u> <u>Committees</u>					
<u>Section 203(1)</u> <u>Committee can Co-opt Any Person</u>					
<u>Section 203(2)</u> <u>Person Not Entitled to Vote</u>					

Filename CAFFC20

FINANCIAL & FISCAL COMMISSION	ANC	NP	IFP	FF	DP
Section 204 Remuneration & Allowances of Members & Other Persons	The provisions for meetings, remuneration, co-optation and length of office that are covered by Sections 200 to 206 of the Interim Constitution shall be provided for in national legislation.				No change required.
Section 205 Appointment of Staff	As above				
Section 205(1) In Consultation with the Public Service Commission	As above				Staff should be "after consultation with " rather than "in consultation".
Section 205(2) Parliamentary Appropriations to Pay for Incidental Expenditures	As above				
Section 206 Regulations	As above				No change required.
Suggested New Clauses	The Constitution should provide that the FFC present regular reports both to Parliament and to provincial legislatures in a manner to be determined by national legislation.	The NP proposes that the Constitution should provide for the establishment by Provincial Statute of a body similar to the FFC in each Province to deal with the financial and fiscal relations between the Province and Local Authorities in its area of jurisdiction. Each Province and the Local Authorities within its boundaries should have equal representation on the proposed Commission.			

Filename CAFFC21

FINANCIAL & FISCAL COMMISSION	ACDP	PAC	CP	SACP	
Section 204 Remuneration & Allowances of Members & Other Persons	As above				
Section 205 Appointment of Staff	As above				
Section 205(1) In Consultation with the Public Service Commission	As above				
Section 205(2) Parliamentary Appropriations to Pay for Incidental Expenditures	As above				
Section 206 Regulations	As above				
Suggested New Clauses	The Constitution should provide that the FFC present regular reports both to Parliament and to provincial legislatures in a manner to be determined by national legislation.				

Filename CAFFC22