

28 October 1998

In bilateral discussions between the SA Government and the African National Congress the following draft Section 121 was formulated for submission to the Technical Committee on Constitutional Issues. This is a preliminary draft and both parties may propose modifications in due course.

A192

[192]

CLAUSE 121

- 121
- (1) An SPR-government shall be competent to levy such taxes, surcharges, user-charges and levies as may be legislated by the National Parliament, which shall take into account recommendations of the Financial and Fiscal Commission established in terms of Chapter 11.
 - (2) The taxes, user-charges and levies by an SPR-government shall not discriminate against non-residents of that SPR who are South African citizens.
 - (3) An SPR government shall be entitled to the following revenue sources in order to assist them to provide services and execute their functions and powers:
 - (a) a reasonable percentage of the national Value Added Tax collected within its boundaries, as legislated by the National Parliament, who shall take into account the recommendations made by the Financial and Fiscal Commission;
 - (b) a reasonable percentage of the Income Tax on individuals collected within its boundaries, as legislated by the National Parliament, who shall take into account the recommendations made by the Financial and Fiscal Commission;
 - (c) an equitable transfer, both conditional and unconditional, of nationally collected revenue, with due consideration of the national interest:
 - (i) once provision has been made for interest payments on the National Debt, as approved by National Parliament;
 - (ii) after the revenues listed in (a) and (b) above have first been deducted from the total revenue collected nationally; and
 - (iii) after account has been taken of the varied fiscal capacities, fiscal performance, needs and economic disparities within and between SPR's, as well as development needs, administrative responsibilities, legitimate interests of the SPR's and other objective criteria, as

identified and recommended by the Financial and Fiscal Commission.

- (4)
 - (a) There shall be established in every SPR a Revenue Fund into which shall be paid all revenues raised by or accruing to a SPR government, and from which appropriations shall be made for the purposes of the SPR government in a manner prescribed by the Constitution and any other law.
 - (b) No money shall be withdrawn from a SPR Revenue Fund, except under appropriation made by a law of the SPR legislature in accordance with the provision of the Constitution.
- (5) An SPR-government shall not be competent to raise loans for current expenditure, except for the purposes of bridging finance within the framework of and subject to conditions laid down in national legislation.
- (6) An SPR government, shall not be entitled to raise taxes detrimentally affecting national policies, inter-SPR commerce, or the national mobility of goods, services, capital and labour.
- (7) An SPR-government, via its responsible department only, shall be competent to raise loans for capital expenditure only within the framework of norms, conditions and requirements provided for in an Act of Parliament, passed after consideration of recommendations made by the Financial and Fiscal Commission.
- (8) The national government may not guarantee any loans unless:
 - (a) the guarantee is an explicit requirement demanded by an international financial institution; and
 - (b) the Financial and Fiscal Commission has verified the requirement as defined in Clause 121(8)(a) above and makes such recommendation to the national government.
- (9) An SPR government shall not have the power to guarantee any loans unless the Financial and Fiscal Commission has verified the requirement and made such a recommendation to the SPR government and the terms of such guarantee are subject to an Act of Parliament.
- (10) Revenue allocations made by national government to local authorities shall ordinarily be made via the SPR-government into whose jurisdiction the local authority falls.
- (11) National Parliament, subject to budget appropriation, shall have the right to make financial transfers to any SPR or local authority taking into account provisions of 146(3).