



ANC

Negotiations Bulletin

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Focus on the Executive

Arising from a number of bilaterals between the ANC and the NP regime, various proposals were submitted to the MPNP with regard to the Executive and its powers. These submissions were processed by the Technical Committee of the MPNP. The following is a summary of their report:-

The National Executive

- * The executive power of the Republic regarding all matters falling within the legislative power of Parliament shall vest in the President who shall exercise his or her powers and functions subject to the provisions of this Constitution;
- * The Constitution shall provide that until 30 April 1999 the national executive shall be composed and shall function substantially in the manner provided for in the transitional constitution.

The President

- * The President shall be the Head of State, and the Head of Government.
- * The President shall be elected by the National Assembly at its first sitting by an ordinary majority.
- * In the event that the President is either incapacitated or resigns, the Constitutional Assembly shall elect a new President.

Executive Deputy Presidents

- * Every party holding at least 80 seats in the National Assembly shall be entitled to designate an Executive Deputy President from among the members of the National Assembly;
- * Should no party or only one party hold 80 or more seats in the National Assembly, the party holding the largest number of seats, and the party holding the second largest number of seats, shall each be entitled to designate one Executive Deputy President;
- * The President shall appoint on a rotational basis one of the Executive Deputy Presidents to act as President during his or her absence or temporary incapacity: provided that if the President is unable to do so, the Cabinet shall make such appointment.

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Powers and functions of the President

The President shall be competent to:-

- * promulgate bills passed by Parliament;
- * convene meetings of the Cabinet;
- * Refer disputes of a constitutional nature to the Constitutional Court;
- * confer honours;
- * appoint, accredit, receive and recognise ambassadors and diplomatic representatives;
- * appoint commissions of enquiry;
- * negotiate and sign international agreements;
- * to proclaim referenda;
- * to pardon or reprieve offenders;

The President shall consult the Executive Deputy Presidents -

- * in the development and execution of the policies of the government;
- * in all matters relating to the management of the Cabinet and the performance of Cabinet business;
- * in the allocation of the functions of the Executive Deputy Presidents;
- * This does not mean, however, that the Executive Deputy Presidents shall have the power to veto the President's decisions.

The Cabinet

- * The Cabinet shall consist of the President, the Deputy Presidents and not more than 27 Ministers appointed by the President to administer one or more of the Departments of State established by the President;
- * A party holding at least 20 seats in the National Assembly shall be entitled to be allocated a number of Cabinet portfolios in proportion to the number of seats held by it in the National Assembly relative to the number of seats held by the other parties represented in the Cabinet;
- * The President shall allocate portfolios to the

parties represented in the Cabinet.

- * The President shall appoint Ministers from among the members of Parliament to Cabinet portfolios on the advice of the leaders of the parties to which the relevant portfolios have been allocated;
- * Deputy Ministers shall be appointed in the same manner as Ministers.

Procedure in the Cabinet

- * Meetings of the Cabinet shall be presided over by the President, or in his or her absence, by a Deputy President: provided that the Deputy President shall, in the absence of the President, preside over consecutive meetings of the Cabinet in turn;
- * The Cabinet shall endeavour to reach consensus on all its decisions, in the absence of which, and if any member of the Cabinet request a vote, by a special majority (which is yet to be agreed to).

Votes of no confidence

- * If a vote of no confidence is passed by Parliament in the President and the Cabinet, the President shall dissolve Parliament and call a general election;
- * If the vote of no confidence is passed by Parliament in the President and not the Cabinet, the President shall resign, and the vacancy filled;
- * If a vote of no confidence is passed by parliament in the Cabinet, but not the President, the President may either reconstitute Cabinet or dissolve Parliament and call a general election.

Focus on the Draft Electoral Law

A second draft of the Electoral Law was presented to the Negotiating Council for discussion. Agreement on this Bill will allow it to be passed as law in the November session of parliament.

A summary of the law is as follows:-

Announcement of Election

The State President shall, acting on the advice of the TEC, determine the voting day or days of an election as well as the hours during which the voting shall take place.

Administration

- * The elections shall be administered by the Independent Electoral Commission;
- * A party liaison committee, made up of representatives of all political parties participating in the elections, shall be established for the purpose of liaison between the IEC and the individual parties in respect of, the administration of the electoral arrangement, staffing, the location of voting and counting stations, demarcation of voting districts and the number and location of foreign voting stations. This committee will however not be a decision making body.
- * A Chief Director would be appointed together with regional and district electoral officers;
- * The regional and district electoral officers shall assume the responsibility for the administration, supervision and conduct of the elections for the area in which they have been appointed.

Franchise

- * Any person above the age of 18,
 - (a) who is a citizen of the Republic; (The ANC maintains that this should include all citizens of the TBVC states as well)

- (b) was born in the Republic, and who will have been ordinarily resident in the Republic for a period of at least one year prior to the first voting day;
- (c) was born to parents who are, or were up to their deaths, citizens of the Republic, and who have been ordinarily resident in the Republic for a period of at least one year prior to the first voting day; or
- (d) is married to a citizen of the Republic, or was so married up to the death of the spouse, and who will have been ordinarily resident in the Republic for a period of at least 5 years prior to the first voting day, shall be eligible to vote.

The only people not entitled to vote would be those who have legally been declared to be of unsound mind, mentally disordered or affected or detained in prison in respect of particular offences provided that such offence was not committed with a political motive.

Voters' cards

The Commission shall in a prescribed manner issue voters' cards on application in a prescribed manner received at least 14 days prior to the first voting day and which card shall constitute adequate proof of the holder's entitlement to vote.

Registration of Parties

- * No party or organisation would be allowed to contest an election unless such party is registered accordingly;
- * If a party wishes to contest the election for the National Assembly, such application shall be accompanied by a deposit of R25 000 or, in lieu thereof, a list containing the full names, residential addresses, signatures or thumbprints and the numbers of the voters' eligibility documents of at least 5 000 voters;
- * If the party wishes to contest the election for any other legislature, then a deposit of R5 000 or 1 000 voters ordinarily resident in that region would be necessary;
- * Each party or organisation registered for

the election shall appoint a chief election agent as well as regional election agents. These election agents shall represent the party or organisation concerned in all fora constituted in respect of the election.

Submission of lists of candidates

- * All parties intending to participate in the elections must submit its list of candidates to the Chief Director of the IEC;
- * The names shall appear in such order as the party may determine;
- * The lists of candidates, once completed, will be published by the Chief Director.

Preparation for Voting

- * Each Regional Electoral officer shall determine the number and locations of voting stations in the region concerned;
- * An area within a radius of 500 metres around the voting stations shall be deemed to be part of the voting station;
- * The IEC may at its discretion establish one or more voting stations outside the Republic to facilitate voting by person eligible to vote;
- * One hour before the commencement of the voting on the first voting day at a voting station, the presiding officer shall satisfy himself that all ballot boxes are empty, permit the inspection of all such empty ballot boxes by voting agents and international observers and immediately thereafter seal all such ballot boxes.

Voting at Voting Stations

- * Each person would be entitled to only one vote in the election for the National Assembly and one further vote in the election for any one other legislature;
- * A voter shall record his vote in secret;
- * No voter shall be permitted to vote unless he or she has presented an acceptable identity document;
- * At the request in person by a voter who is

incapacitated by blindness or other physical disability from voting the presiding officer may provide the assistance required.

- * Each party would be informed of the date and venue where the counting of votes would take place.
- * A voting agent shall have the right to bring to the attention of the counting officer any alleged irregularity or inaccuracy. This allegation shall be recorded and brought to the attention of the Commission.
- * A voting agent shall have the right to challenge the count of votes by the counting officer.

Posters and Pamphlets

Every bill, placard, poster, pamphlet, circular or other printed matter having any reference to an election shall bear upon the face of it the name and address of the printer and publisher.

Prohibition on Publication of Opinion Polls

No person shall during a period of three weeks prior to the first voting day, publish the results of any opinion poll purporting to reflect the level of support enjoyed by registered parties, listed candidates, or the policies they advocate until after the election.

General

Parties at the MPNP are presently attempting to process all the outstanding issues with a view to producing agreements. It is hoped that all work will be completed by the weekend of the 13/14th November when a Plenary Session will be held.

At the Plenary all agreements produced thus far will be ratified by the leaders of all participating parties. This will allow these agreements to be processed for purposes of being passed as Law.

Notice

This Bulletin is intended merely to inform and stimulate discussion. The views contained herein do not necessarily reflect the official views of the NEC of the ANC