

Address to the FFC 10th Anniversary Conference by Mr. T. A. Manuel, Minister of Finance Wednesday

11 August 2004

Thank you very much for the opportunity to address you this evening. I owe you an apology for my inability to have joined with you yesterday. I suppose the old adage in intergovernmental relations is true: Chaos in one sphere produces disruptions across the system. I had to host a meeting of SADC Finance Ministers, which had to happen this week because it failed to convene previously and in other countries over the last fortnight. The result is that I gave up the pole position I had, which would have entitled me to speak first – by now you've heard it all.

I am sure that the contributions from Commissioners and associated luminaries over the past 36 hours have left you all suitably impressed. You have to be impressed for in a decade the Financial and Fiscal Commission led the building of a system of intergovernmental fiscal relations from zero. It is not only their view. This perspective is shared by practitioners from all three spheres of Government and the achievements are applauded by academics from all persuasions. What can I possibly add to this? But this is dinner and I am sure that even you are entitled to a slightly different approach between the hard conferencing of today and the intensity of conference tomorrow. So let us change the lenses for this evening..

Permit me then to share a few observations that we would request historians not to quote.

- The negotiations for democracy in South Africa were between centrists and federalists. On virtually every aspect of the constitution, the centrists, with their strong experience of and commitment to human rights won. The notable exception was the shape of government. I recall that many of us were shocked when we learnt that an agreement had been struck to create nine new provinces. Dr. Renosi Mokati was exceedingly patient in trying to explain to me, for hours, what these provinces would be, where their boundaries would lie, and what they would do. There were intense debates in the ANC about the interrelationships between the tiers, oops, spheres – strong-weak-weak versus strong-weak-strong versus strong-strong-weak. In all instances the first sphere, national, was designed to be strong. This was our vengeance against the confederalists who argued that national government should only have the remainder, namely Defence and Foreign Affairs. A further discussion related to how responsibilities would be transferred to these provinces, given the complete chaos inherited from the Bantustans, some of which were geographically in the same locality that some of the provinces would be located in. Anybody who suggests that this inorganic construction of government was or could have been easy, is in need of very specialist medical help.

- In this environment, in this state of shock, we had the presence of mind to send teams of people to different parts of the globe to try and understand the complex fiscal arrangements. Visits were paid to Australia, India, the USA, Brazil and Canada. Each time they returned with the same message. “This is how we do it, please do not emulate us.” And so were left to build this complex system without any precedent. My worst fears were realised when after one such trip, Ismail Momoniat returned with two boxes loaded with the same red book entitled “Fiscal Federalism in Theory and Practice”. I knew then that the end was nigh since the only link with Momo’s past was the deep red of the cover.
- One of the other issues that should never be written about is the fiscal equivalent of the chicken and egg. The first MEC for Finance in the Eastern Cape, Professor Shepherd Mayatula, is a thorough gentleman in almost every sense of the word. His one weakness has been his penchant to raise uncomfortable questions. The impolite question he would repeatedly ask is how the first figures for each provincial allocation were arrived at. As a former economics professor, he had no problem with the formula, but how were the first figures arrived at? Indeed, why was it that the first Eastern Cape allocation was exactly the same as the Budgets of the former Republics of Ciskei and Transkei, minus the allocations for Defence and Foreign Affairs? Clearly this was the fiscal chicken and egg debate. I was new to this, I made no pretence to being excessively numerate and I watched in amusement as Treasury officials and the FFC squirmed in unison.
- 1994 was also the front end of the bull market. There were people in financial services who discovered terms like “derivatives”, ”futures” and “hedged”. Every second day, such individuals, smart and unstraight, would knock on the door of provinces to explain how they could deal with every conceivable backlog in the shortest space of time by merely signing on the dotted line and committing future revenue streams to the wise and learned financial intermediaries. This begins to explain the crafting in evidence in the Provincial Borrowing Powers Act, and why it 4 was promulgated before even the Intergovernmental Fiscal Relations Act.

So before you write up the Intergovernmental Fiscal Relations of the first few years of democracy, as an “Ode to Naivety” let me give you the assurance that what we lacked in experience we made up for, many times over, in vision and determination.

Core amongst the ingredients that pulled us through was the FFC, under the chairpersonship of Murphy Morobe. This was a team committed to learning faster than the rest of us, unafraid to offer opinions and, very importantly, willing to adjudicate contests, particularly between national and provincial governments or between provinces themselves. If there was a fault in the design of the FFC, it may have been that the institution was designed in an abundance of caution. All Commissioners have taken their task very seriously. So serious was one

Commissioner that he wanted to resign at one stage because for two successive meetings, the FFC was not quorate, and in his view, incompetent therefore to take decisions, and he so cherished the Constitution that he could not be seen in violation by omission. His attitude is illustrative of the level of commitment and dedication which has created the presence in place for the FFC. But, he was not alone, his actions are illustrative of the FFC ethos.

A second ingredient was that we managed to get the Constitution and legislation spot-on. Key amongst these are, in the Constitution, Section 214 which permits the equitable division of revenue and creates the FFC as against Section 100 (1) which gives National Government power to intervene in respect of a province or Section 139 which allows a province to intervene in an instance of Local Government. The Constitutional balance creates both rights and obligations. Key legislation on intergovernmental frameworks include the · The Borrowing Powers of Provincial Governments Act, 1996; · The Intergovernmental Fiscal Relations Act, 1997; · The Financial and Fiscal Commission Act, 1997; · The Public Finance Management Act, 1999; · The Provincial Tax Regulation Process, 2001; · The Municipal Finance Management Act, 2003; · The Local Government: Property Rates Act, 2004; and seven Division of Revenue Acts (1998, 1999, 2000, 2001, 2002, 2003 2004).

Together these pieces of legislation have created a basis for engagement and have provided a legal certainty.

The third ingredient in the success of the period is people. The quality of individuals who served in the Budget Council and Budget Forum – both as political office-bearers and technicians – made a considerable difference. I believe that participation was assisted by the fact that participants understood that their views were taken seriously. Despite the fact that the Budget Forum comprised representatives from different political parties at times, it was never necessary to convene a caucus on party lines. The truth was that the nature of the discourse saw alignments based on interests, for example rural provinces aligned against the urban privileged, rather than on party lines. We always had almost all MEC's in attendance, and the debates were always intense, the mercurial Godongwana could not have been accommodated in any other manner. But importantly, the interpersonal chemistry worked.

Without a shadow of doubt an exceedingly solid basis has been laid; where some of us have sought to rush in the FFC helped us find our footing. I want to take as a given that we will consolidate the massive strides we have made in improving on accountability through the PFMA and the still-to-be-realised gains from the Municipal Finance Management Act. Further, we must make a general commitment to improve on the quality of the statistics we have at our disposal to ensure that at every material point our efforts and pro-poor policies can be targeted to the best effect.

I do however, wish to share a few suggestions that might improve on future decision-making or at least give rise to one huge debate in defence of what exists.

- Firstly we are Governments. We need to govern in a manner that allows us to interpret the mandate we received from the electorate. Against this, there is a formulaic approach, which from time to time appears as though it wants to allocate all resources on the basis of formulae, undermining the fiscal oversight and decision-making of Government. This is a matter that will continue to dominate the interrelationships between Government and the FFC. The key then is to find a way to enlarge policy room in all spheres of government.
- Secondly, in our youthful enthusiasm we defined Government as “constituted as National, Provincial and Local Spheres of Government, which are distinctive, interdependent and interrelated” [S 40 (1)]. Whilst this is clearly a mark of innovative drafting, it is not without its difficulties. It would not be unreasonable to examine an approach which is perhaps more “tiered” or endeavours to address the strong/weak debate referred to earlier.
- Thirdly, it would not be unreasonable to draw on a decade of experience and examine the powers and functions assigned to various spheres of government by the Constitution. We can do this without attempting to fix what is not broken. We must commit to greater levels of efficiency and accountability. This commitment will not be attainable if we have sacred cows in the way of rational discourse.
- Fourthly, we need to find a balance between supporting local development initiatives through the equitable share component as against the targeted outcomes in well-constructed and well-motivated conditional grants. If governments must govern, then we should not fetter them with an overload of either conditionalities or unfunded mandates arising from rushed policy decisions taken away from the sphere where the spending will take place.
- Fifthly, in the spirit of governments governing, we must explore the ability of all spheres to raise taxes. This challenge requires simultaneously rising to the challenge put by President Mbeki on strengthening the fiscal capacity of local governments and examining provincial capacities without the comfort zone of an efficient SARS.
- And finally, we should not be afraid to test ideas on development asymmetry, even if this would entail retooling the applicable formulae to reweigh the demographic, economic contribution and underdevelopment components. If we seek different outcomes to settlement patterns and the spatial geography of poverty, we must commit to reverse the polarising effects of unmitigated urban settlement.

In conclusion, I want to re-emphasise that we should not sell the achievements in the Intergovernmental Fiscal Relations short. Democratic South Africa has much to

thank the FFC for. The worst mistake we can make is even a momentary lapse of self-satisfaction. The mandate from our people, at least to 2009, is a contract focused both on work opportunities and a war on poverty. Our invitation to the FFC is to act decisively both as participant and conscience to government.

Finally, we can now stop distributing “Fiscal Federalism in Theory and Practice”. WE can confidently write our own book and tell the story of a struggle well waged. Similarly, we will not have to send away visitors with the instruction “This is how we do it, please do not emulate us”. We have much to be proud of, yet sufficient undone to compel us to be humble.

Thank you.