

08/06/93

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THE AFRIKANER-VOLKSUNIE

THE AFRIKANER-VOLKSUNIE'S COMMENTS ON REFORMULATION OF CONSTITUTIONAL PRINCIPLES

The Afrikaner-Volksunie wishes to confirm its viewpoints put forward in the Negotiating Council on 3 June 1993.

We refer to the General Constitutional Principles in the Third Report of the Technical Committee under Paragraph 2.

AD 2.1:

- [a] We proposed an amendment at the end of the paragraph to add the words "as well as SPR citizenship".
- [b] We see this as a fundamental amendment because we foresee a form of regionalism based *inter alia* on the Swiss Cantonal system where regional citizenship is acknowledged.
- [c] We further made it clear that our acceptance of this principle [as amended] is subject to an agreement being reached on acceptable powers and functions as well as boundaries for the envisaged regions.

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AD 2.4:

We questioned the use of the word "legitimate" and supported the scrapping thereof. We confirm that there was general agreement that the South African Common Law and statutory laws [bar those to be repealed] will be acknowledged as the Law of South Africa.

AD 2.8:

We would like the diversity of peoples also to be acknowledged. In this regard we would like to refer you to the Resolution of the General Assembly dated 1 December 1992, A/C. 3/47/L66 which we filed with our previous representations.

AD 2.9:

The right of self-determination was allowed to stand down for full debate during the next Council meeting.

Apart from the documents already filed, we would like to refer you to:

- [a] The international Bill of Human Rights, and more specifically to the International

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Covenant on economic, social and cultural rights and the International Covenant on Civil and Political Rights.

[b] The Presentations made at the Lichtenstein Conference on 16 March 1993. We presume that the Technical Committee is in possession of all the papers delivered. We annex a summary of the contributions made - Annexure "A". We also annex the paper delivered by His Highness Prince Hans Adam as Annexure "B".

We will of course make further oral submissions in this regard. We would like the Technical Committee to refer to the Vance Owen Report as reflected in the Report of the Secretary General on the International Conference on the former Yugoslavia.

We also refer to the report by the then Minister of Justice of France, Mr. Robert Padentur. We presume that copies of these documents are at your disposal. If not, we would try to make copies available to you.

With regard to the Principles dealing with the allocation of powers to different levels of Government we make the following observations for your consideration.

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- [a] That the only viable and stable solution would be the establishment of a decentralized state.

- [b] This would mean a state in which many of its principal functions, especially those affecting persons, would be carried out by SPR's with different levels of autonomy.

- [c] The National Government would only have those minimal responsibilities that are necessary for a State to function a such, and to carry out its responsibilities as a member of the international community.

This the powers we suggest which our own State should have are the following:

1. The right to choose our own Government.

2. The right to have within our own State our own security forces.

3. The right to regulate migration in accordance with internationally accepted criteria.

4. The right to decide which powers our State is

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prepared to transfer to a national co-ordinating authority.

5. An independent judiciary based on the principles of Roman Dutch Law.
6. A free market system with maximum fiscal autonomy and a fair system of taxation.
7. The maximum practical devolution of power to local authorities.
8. The protection and development of an own community life, language, culture and in particular, provision of culture related education, welfare and health services.
9. To uphold our anthem and national symbols.

Further comments on the Principles set forth in the Third Report are as follows:

AD PAR. 3.7:

We suggest that the advice should be to the "different levels of Government" and not only to National Government.

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AD PAR. 3.8:

Fiscal and financial allocations "to the different levels of Government" instead of "by the National Governments to SPR Government".

AD PAR. 3.9.1.3:

To delete the last four words in the paragraph, and to substitute it with "of the "Forum where it could be most effectively executed to the advantage of the people".

AD PAR. 3.9.2:

According to the Committee's own definition and/or understanding of a "unitary State" as opposed to a federal State, the various sub-paragraphs indicate that a decision in favour of a unitary State is advocated.

As the Negotiating Council has itself not yet taken any decision, we suggest the whole of paragraph 3.9.2 etc. should be redrafted so as to provide for a choice between the two.

This is best illustrated by paragraph 3.9.5 dealing with "residual powers".

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Our proposal is that residual powers shall vest in the SPR Government.

AD PAR. 3.9.2.2:

We suggest the deletion of the words "across the nation" by substituting it with "within all the SPR's".

Also we suggest a proviso is to be added "as long as it is not to the detriment of minorities".

Doc 1.2

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Paper G

MEMORANDUM

Self-determination

Liechtenstein Initiative

1. The main elements of the suggestions being put forward by Liechtenstein are summarized in the following paragraphs.

2. All communities which possess a distinctive social and territorial identity should be recognized as having the inherent and inalienable right to self-determination; in order to benefit from effective international procedures to give practical effect to that right their renunciation of resort to violence is an indispensable condition.

3. Self-determination involves the free choice by each community of its political, social, economic and cultural destiny in accordance with the best interests of its members.

4. It is not necessarily, or even primarily, a matter of independence. Self-determination and respect for diversity can take various forms, as may be best suited to each community's and each State's particular circumstances. These forms of self-determination should be flexible and graduated, involving different levels of autonomy, taking account of the differing needs of different communities and the States of which they form part.

5. A certain initial and very basic level of autonomy should be acknowledged for all communities with a sufficient degree of distinctive identity.

6. (a) More advanced levels of autonomy may in time come to be appropriate for communities whose particular circumstances and experience demonstrate their fitness to enjoy them. They would be developed case-by-case, and would progressively involve a degree of decentralization in the internal administration of the State and add to the extent to which the community conducts its own affairs.

(b) But since the grant of autonomy, as well as the more general application of the principle of self-determination, must maintain a proper balance with the territorial integrity of States, these further levels of autonomy should be optional, to be adopted only if the community in question seeks them and the State concerned agrees.

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7. A final level of autonomy amounting to independence may be appropriate in certain cases. As with the other levels of autonomy beyond the initial basic level, independence will be optional and require the consent of the State concerned. Certain other safeguards will need to be adopted, to ensure that transition to independence takes place in an orderly manner.

8. Assistance in the effective operation of this pattern of flexible and graduated levels of autonomy should be available, through independent procedures. Thus there might be a body with responsibility for ensuring that the underlying policy is effectively implemented, and (if necessary) for regulating any financial aspects of its work.

9. There will probably also need to be an individual charged with an active role in the practical operation of the arrangements for the effective realization of the various levels of autonomy, e.g. by offering assistance if difficulties arise, or by extending help through offers of good offices or mediation.

10. There will, finally, probably be a need to provide for the peaceful resolution of any differences which might arise.

11. A practical framework, on the above lines, whereby the right of self-determination might be made more effective and through which communities can give expression to their distinctive qualities, should be established through the United Nations.

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B

STATEMENT OF
HIS SERENE HIGHNESS
PRINCE HANS-ADAM II VON UND ZU LIECHTENSTEIN
AT THE MEETING OF EXPERTS ON SELF-DETERMINATION
IN SCHAAN

16 MARCH 1993

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Excellencies,

Ladies and Gentlemen,

It is a great pleasure for me to welcome you here in Liechtenstein for this meeting on self-determination. I want to thank you very much for putting your efforts to such a difficult and to a certain extent also controversial subject.

The Principality of Liechtenstein with no army to defend itself and one of the smallest States Members of the United Nations knows the value of self-determination. We are therefore determined to support the concept that self-determination is a basic human right which should be applied worldwide.

Of course, it will take a long time until this goal is reached and even then there will be States on this planet where the right of self-determination and other human rights will be violated. Nevertheless, I do not think that the world will accept for ever concentration camps, ethnic cleansing, systematic rape torture and killings. TV and the rising numbers of refugees will increase the demand by the public not only for economic sanctions but also for military intervention against States which violate human rights including the right of self-determination. In many cases military intervention will not solve the problem. There is substantial danger that such intervention might degenerate into simple power policy and lead to new and much larger conflicts.

I hope that one day we will have a law and a court accepted worldwide for the right of self-determination. The right of self-determination should not depend on whether a community has oil or not. In Europe we have already a convention on human rights and a court. The experience has been very positive. Our endeavours here in Liechtenstein are to apply a similar solution worldwide for the right of self-determination.

It certainly is an ambitious project and it will take time. Nevertheless, my personal feeling is that most States Members of the United Nations will recognize that the time has come to find ways in which the right of self-determination, which is now well established in principle, can in practice be more effectively applied worldwide. Our world is changing very rapidly and new developments are emerging which we have to cope with in a peaceful way; otherwise the most terrible wars might well shake our planet again.

The collapse of the Soviet Union was only a symptom of a historic trend which seems to have started with the breakup of the colonial empires a few decades ago. Those large centralized empires lost the competitive edge they enjoyed throughout the 19th century

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and well into the 20th. Worldwide economic integration through free trade and the free markets which opened up in many parts of the world deprived the large empires of their economic advantages. Those empires proved too small to compete in the world market and too large and bureaucratic to adapt to the new situation. Military power was not enough to hold them together.

If we examine the situation in the world today it seems that it is not only the large empires that are threatened by this historic trend but also the nation-State, shaped according to the ideas of the 19th century. Throughout human history we can follow historical trends which over certain periods of time have favoured large centralized States or empires. But during other periods small States or decentralized large States and empires have prevailed. Over the centuries military technology and economic factors have favoured the large States with strong central governments but several decades ago - barely noticed by the public - this trend began to change. Whenever such trends have changed in the past, wars have increased both in number and in intensity: wars of aggression in one case, civil wars in the other. All our endeavours should now be aimed at coping peacefully with these changing trends in human history.

History has a tendency to repeat itself, but never in exactly the same way, and therefore it is important to note the differences. There is one big difference in the current trend towards smaller or more decentralized large States, as compared with similar trends in the past: Our world has become much smaller. Mainly through worldwide communication and transportation, we have recognized that many of our problems can only be solved through cooperation on a continental or worldwide basis. Whereas on one side we see colonial empires and States such as Yugoslavia falling apart, on the other side there is an integration process which has been going on since World War II, on an international and a regional level. The United Nations with all its specialized agencies plays an important role, but so do the European Community and other regional organizations.

The world is slowly moving away from the concept of the State as it was mainly created in the 19th century, and as it still to a large extent dominates international relations today. Allow me to illustrate this statement using the Principality of Liechtenstein as an example.

Liechtenstein has no national currency, no army, hardly any embassies abroad, no university, no national airline, or other traditional attributes of the nation-State. We have used the Swiss Franc as our currency for nearly 80 years, and before that the Austrian currency. But basically we could use any other fully convertible currency without too many

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problems. Membership in the United Nations, the Council of Europe, the EFTA and other organizations has transferred many of the rights and tasks of our State to international organizations.

In Western Europe most States have transferred important economic decisions from the national to the regional level. The different European courts on human rights and other areas have a substantial influence on the States Members.

Liechtenstein has for a long time cooperated very closely with both of its neighbours, Switzerland and Austria. This cooperation is no longer restricted to the traditional bilateral State level. The Liechtenstein Government cooperates directly with the local governments of the neighbouring Swiss Cantons and the Austrian Bundesland of Vorarlberg in such areas as education, health services and security. Liechtenstein consists of 11 communities and each enjoys a high degree of autonomy. The communities have started to cooperate directly with the neighbouring communities on the Swiss side, which enjoy a similar degree of autonomy, without any interference from the respective State governments.

Because the Principality of Liechtenstein is so small it never assumed the guise of the traditional State, with its strong national government. At times in our history this was a disadvantage. However, in our modern world this has turned out to be an advantage, because the traditional nation-State has proved to be either too small or too large to solve most of the problems of our time. Cooperation on a worldwide and regional level, decentralization down to the smallest community and much room for private initiative is necessary today if a nation wishes to prosper. This is one of the main reasons why the population of Liechtenstein, which possesses no natural resources itself, enjoys one of the highest per capita incomes in the world. Small nations without natural resources which follow this policy very often enjoy a higher standard of living than their much larger neighbours with abundant natural resources. Cooperation and subsidiarity is more than an European fashion at the end of the 20th century.

I am convinced that in the next century most States will have to evolve in that direction or they will disappear. Communities such as cities or villages will once again assume much greater importance, as was in fact the case before the emergence of the large, centralized nation-State with its strong central government. Private initiative and cooperation on a local, regional, state, continental and worldwide level will become even more important than it is today.

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This development is one of the reasons why the community and its autonomy has received so much attention in our initiative for self-determination. Without seeking to deal exhaustively with all the many and very complex issues raised by the question of self-determination, we believe that an approach which looks towards staged increases in the level of autonomy enjoyed by communities offers one realistic way of working towards the goal of making the right of self-determination more effective in practice.

We also hope through this approach to achieve a better solution to one problem usually associated with self-determination. Very often a certain area may be inhabited by a mixed population, from the point of view of ethnic, religious, or cultural background, as was the case in Yugoslavia. If the principle of self-determination is applied as it has been in the past, new States are created along borders which were very often established in a rather arbitrary way. Inside these new States which are usually established according to the ideas of the 19th century, minorities exist once again whose right to self-determination is often disregarded. Political unrest, civil war or even "ethnic cleansing" may follow.

If in Yugoslavia the principle of self-determination had been applied at the community level and with more autonomy instead of full independence as the immediate goal, Yugoslavia would probably still exist and civil war would have been avoided. With the exception of Slovenia, all the new States which have emerged from the collapse of Yugoslavia have large minorities within their borders whose right to self-determination has not been respected. It is interesting to note that even the political leadership of Slovenia was willing to stay within Yugoslavia if their demands for autonomy had been met.

The right to self-determination is by its nature a right which can only be applied to a group, and not to an individual. This has been one of the main difficulties which made its realization so difficult. We in Liechtenstein feel that this right must be given to the smallest group which can exercise it with some success, and this group in our opinion is the community. A community is at least in some respects capable of governing itself and usually has a well-defined territory. A community may be a village, a city or perhaps also a tribe. In most cases a community will be too small to become fully independent, but as we have seen independence in our modern world has lost much of its importance and has become very relative, even for a superpower such as the United States of America.

Of course, the definition of the word community will be difficult. A community might also be divided, and its territory is not always so well defined. Nevertheless, in most States very often a community will be better defined than a minority and will have at least a

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COMPOSITION OF THE DELEGATION OF LIECHTENSTEIN

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- H.S.H. Prince Alois von und zu Liechtenstein, Hereditary Prince

REPRESENTATIVES

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- Ambassador C. Fritsche, Permanent Representative to the United Nations in New York
- Sir Arthur Watts, Legal Adviser
- Ambassador R. Marxer, Director of the Office for Foreign Affairs
- Ambassador J. Wolf, Permanent Representative to the Council of Europe
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- Doris Frick, Diplomatic Collaborator, Office for Foreign Affairs
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- Helga Hagen
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minimum organizational structure to which some autonomy rights can be transferred. It might be politically easier for a State to grant a certain degree of autonomy to communities than to minorities.

The initiative of Liechtenstein stresses the importance of granting a certain degree of autonomy. Unfortunately, it is still unacceptable for most States Members of the United Nations to grant full independence to established communities within their territories. It should be easier to grant a certain degree of autonomy which would at least be a step into the right direction. For many minorities the granting of autonomy might already solve most if not all their problems. Full independence without some experience of self-government and a basic organizational structure can bring a new State very rapidly into political and economic chaos.

We must be realistic in our approach, but I am optimistic that most States will one day accept a convention on self-determination without reservation. If we examine human history it seems that humanity does not have many alternatives. In the past and in the future new States have been and will be born; their borders change, they disappear. If we regard longer periods of time we see that States have life cycles similar to those of the human beings who created them. The life cycle of a State might last for many generations, but hardly any State Member of the United Nations has existed in its present borders for longer than ten generations. To attempt to freeze human evolution has in the past been a futile undertaking and has probably brought about more violence than if such a process had been controlled peacefully. Considering the advances in the field of technology, civil wars will become more and more destructive, not only for those directly involved but also for the neighbouring States and for our whole environment. The possible destruction of a large nuclear power plant in a civil war is a frightening example. Would it not be much safer to replace the power of weapons by the power of the vote, even if it means that new States may be born? A State is made by people and should serve the people, and not the other way around.

We hope here in Liechtenstein that this meeting will give us some indications on how to proceed with this project on self-determination. As I mentioned in the beginning we see this as a long-term project which we will pursue with energy. This is one of the reasons why my eldest son Prince Alois and myself will attend the whole meeting. The other reason is that we both have a strong interest in the subject. Again thank you very much for coming and perhaps we will be able to start with this meeting a process which will promote peace and will lead to a safer and better world.

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