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CONSTITUTIONAL ASSEMBLY

**MEMORANDUM**

**TO: Members of the Constitutional Committee Subcommittee**  
**FROM: Executive Director**  
**DATE: 26 February 1996**  
**RE: General Viljoen's Submission on Self-Determination**

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We enclose for your consideration a submission from General Viljoen on Self-Determination for the 27 February 1996 meeting of the Constitutional Committee Sub-committee.

Please note that although the submission appears on a Vryheidsfront letterhead, it was submitted by General Viljoen in his personal capacity. Thank you.

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**H EBRAHIM**  
**EXECUTIVE DIRECTOR**  
**CONSTITUTIONAL ASSEMBLY**

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21 February 1996

The Director  
Constitutional Assembly  
Cape Town

Sir

## THE RIGHT TO SELF-DETERMINATION

I refer to the general invitation for comment on the Refined Working Draft (Third Edition) of the Constitutional Assembly.

In view of the decision taken by the Constitutional Assembly (November 1995) on the issue of the right to self-determination, and on the strength of the Constitutional Principle XXXIV which I submit, must be considered regulatory in this respect, I wish to comment as follows:

1. In recent years the right to self-determination has gained new significance, and in International Law a lively debate is shaping on the concept which is of course related to the need to find peace and an acceptable framework for co-existence, particularly in those circumstances where friction is latent or active in conflict. The principle of self-determination has grown in significance from its limited application in the colonial situation to include the rights of national minorities, or ethnic, religious or linguistic minorities within a state and within pluralistic societies.

In this respect I submit a number of papers presented by my Party in dialogue on the issues around self-determination. I suggest they be made available to the members of the Constitutional Assembly as resource material for the pending discussion by the Assembly on self-determination. I maintain that the true concept of self-determination and the debate around it is largely unknown in South Africa and often mutilated by the abuse of the concept by racist orientated pressure groups.

2. Since the publication of the Covenant on Civil and Political Rights in 1966, but particularly in the past decade, the concept has developed within the ambit of the general concept of human rights. There is within the larger international community a growing realization that the formulation of human rights and freedoms in terms of the individual only is inadequate and that, whatever the difficulties may be in this respect, the rights and freedoms of a community in which individuals live, also have to be considered and articulated with a purpose of further safeguarding human rights and to facilitate peace and tolerance in society.
3. In this respect I want to draw your attention to two examples of what I mean. The first example relates to the proposals on minority protection within the European Union.

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The draft on Fundamental Rights of persons belonging to the Ethnic Groups in Europe, which was prepared by a committee of experts which was formed after the meeting of the Council of Europe Summit in October 1993. The draft is designed to become an additional protocol complementing the European Convention on Human Rights.

The contents of this draft is done under the following headings:

I **Fundamental Rights of Persons belonging to Ethnic Groups in Europe**

*Draft for an Additional Protocol to the ECHR.*

Preamble

i. **General Provisions**

- \* Protection of ethnic groups within the framework of Human Rights.

ii. **General Fundamental Rights**

- \* Right to identity (existence) and protection from threat.
- \* Right to non-discrimination, equality of treatment and equal opportunities.

iii. **Special Fundamental Rights**

- \* Right to language.
- \* Right to education.
- \* Right to separate organizations.
- \* Right to unimpeded contacts.
- \* Right to information.
- \* Right to proportional access to the public service.

- \* Right to political representation.
  - \* Right to autonomy.
- iv. Guarantee of Rights and Legal Protection
- \* Right to remedy and duties of persons belonging to ethnic groups.
  - \* Right to an Ombudsman.
  - \* Sphere of validity.
- v. Control Machinery
- \* Individual and State complaints.
  - \* State reports.
  - \* Peaceful settlement of disputes.
- vi. Final Provisions

In addition the contents of a special discussion document for a Special Convention was also prepared under the following headings:

## II Autonomy Rights of Ethnic Groups in Europe

### *Discussion Document for a Special Convention*

#### Preamble

- i. General Provisions
- \* Autonomy without prejudice to the territorial integrity of the State.
  - \* Definition of ethnic group.
  - \* Fundamental principles.
- ii. Rights of Autonomy
- \* Right to territorial autonomy.
  - \* Scope of the territorial autonomy.
  - \* Rights to protection of other citizens.
  - \* Right to cultural autonomy.
  - \* Scope of cultural autonomy.
  - \* Right to local self-administration (local autonomy).
  - \* Scope of local self-administration (local autonomy).
  - \* Administrative sub-division.
  - \* Provision with financial means and financial adjustment.
  - \* Legality control.

iii. Provisions on Legal Protection

- \* Internal implementation by the States and co-determination.

iv. Control machinery

- \* Individual and State complaints.
- \* State reports.
- \* Peaceful settlement of disputes.

v. Final Provisions

I have mentioned the content of these documents to indicate the wide range of topics considered within the ambit of the need for minority protection.

4. The second example is taken from the report by the Secretary General of the United Nations in June 1992, which was given the over-all title: *An Agenda for peace, Preventative diplomacy, peacemaking and peace-keeping.*

I quote from the Report:

"The sovereignty, territorial integrity and independence of States within the established international system, and the principle of self-determination for peoples, both of great value and importance, must not be permitted to work against each other in the period ahead. Respect for democratic principles at all levels of social existence is crucial - in communities, within States and within the community of States. Our constant duty should be to maintain the integrity of each while finding a balanced design for all."

And in section 59 he refers in this regard to the need for the strengthening of "new democratic institutions."

Self-determination more and more today has an extended application in the search for social peace.

These examples confirm the Constitutional relevance of Article XXXIV of the Constitutional Principles.

*In view of the aforesaid, I submit that the right to self-determination is of such importance that it needs to be included in the new Constitution as a right that can be claimed by all communities, without affecting National Unity or the democratic structures of Government.*

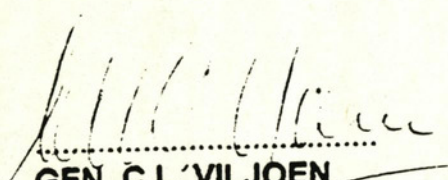
I suggest that the panel of experts be consulted on where and how this can be done and what institutions can be created.

My own feeling is that it needs to be mentioned -

- i. in the Bill of Rights (Chapter II, 17) under the heading of Freedom of Association;
- ii. in Chapter 10 under Local Government, where provision must be made for institutions of self-determination for communities who so wish;
- iii. In Chapter 8 (Provinces), where sub-regional self-determination for larger consolidated communities by delegation of powers from the Provincial Governments, must be provided for through the creation of special institutions;
- iv. Chapter 3 (Parliament), where institutions like the Council for Traditional Leaders and a possible Afrikaner Representative Council should be empowered in some appropriate way, perhaps as special Chambers of Parliament.

Sincerely

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GEN. C.L. VILJOEN



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21 February 1996

## **Self-determination - A reconnaissance of the concept: Universal need and practice**

When we start negotiations on self-determination it is important that we all talk about the same thing and do so right from the start.

If that can be done we may save both time and anxiety. Avoiding misunderstanding in this way through conceptual clarity can facilitate a meeting of minds and produce a give and take process without anyone feeling a loser.

For in the international world the concept has often been abused. Particularly powerful states used and invoked the concept to suit their own selfish ideals or hidden agendas. This caused serious confusion on the concept.

And I must admit that also in South Africa and particularly within Afrikaner conservative groups there has been a tendency to claim the principle of self-determination in such a way that it reminded one of the more offensive underlying motives of a racist nature of the apartheid era, thereby confusing the issues in such a way that an internationally acceptable and perfectly valid principle that have been applied in a positive way in the crises of the past century to the advantage of mankind has become suspect and to some may smack of racism. I suggest we consider this concept in the context in which it was legitimately used in the world of the twentieth century.

For the specific concept of self-determination is a product of the world of the 20th Century. The principles underlying the concept is much older and can go back to the ancient Greek philosophers when the principle of government by consent of the governed was established.

But the concept as it has developed in our times reflects the specific tensions or sensitivities of the twentieth century, which was foremost the era of interaction between the East (and Africa) and the West in the context of nationalistic reactions against Western political domination and against the imposing cultural over-powerment of almost the entire world by the West.

This interaction with its inherent tensions took place in a world that was, because of improved communications and technology, rapidly shrinking and adapting to a common materialistic industrialized type of society.

In many ways this was not an easy process. It was painful and confusing and went with cultural, religious and political crises on a massive scale. Some historians like to talk about a cultural shock. "One has described it as a spiritual earthquake."

It produced conflicts and wars that involved almost the whole of mankind. For the first time in mankind's history world-organizations like the League of Nations and the United Nations developed in an effort to find consensus on the most fundamental issue of co-existence and peace.

It was under these historical circumstances that the concept of self-determination developed and was adapted to the needs of this type of society.

Let us be brief and come to conclusions on how to understand self-determination:

- I In Europe the practice was formalized first in the context of a peace treaty where the maintenance of peace after the first world war was sought through the principle of self-determination. The principle was introduced as a specific mode for co-existence that would ensure peace in the conflict stricken region.
- II Even more important for the purpose of our discussion was the use of this principle in the era of decolonization where it in a similar fashion became the suggested mode of co-existence for the international order especially after the second world war.

The prime aim again was peace through the respectful recognition of the widely divergent cultural and national groups who because of the rapidly shrinking world of human existence, became interdependent in a way that has never existed before and had to find a way of peaceful co-existence in this one world that could enhance co-operation and development.

- III The analysis of the East/West conflict is of crucial importance to understand the meaning of self-determination. Just after the turn of the century the Boxer-rebellions in China initiated the manifestations of a fundamental cultural clash between East and the West that soon took on a political reaction. In a few decades time it was this cultural renaissance of the East and subsequently of Africa against the ways of the West that culminated in the thrust for independence and became the underlying motive for the demand for self-determination.

In the councils of the international community then self-determination was accepted as an essential demonstration of respect for the cultural identities of different peoples and as the best way of finding the mutual understanding that would guarantee co-operation. In this process the attempts at international co-operation was shaped of which the U.N.O. is the best example.

The popular reaction was against domination, cultural domination and over-powerment. The concept was developed because of growing interdependence in one world that had to be shared and from the need to find a basis for co-operation that will build trust and mutual respect in order to cope with the growing demands in a united world. The conflict had to be resolved.



And the remedy to the conflict was co-operation and interaction for the sake of the future of all in the one world we happen to share. The basis of the remedy was the mutual respecting of the freedom of all peoples towards the exercise of whatever form of self-determination was viable. As I said this concept has been abused by many for their own reasons. But from the historical conflict of East-West relationships we can draw certain conclusions with respect to a concept of self-determination, that is valid, legitimate and wholesome.

1. Self-determination should not in the final analysis be about self-indulgence in exclusivistic withdrawal. Even if it was initially a reactionary movement of self-assertion in the context of over-powerment and foreign domination, its real aim was engagement in co-operation on the basis of self-respect and respect of the other.
2. Self-determination is therefore not an end in itself. It is a mode of co-existence. It is about co-operation and taking on of joint responsibility. It is supposed to be a way, perhaps the most viable way, of addressing the common problems of the new society in a uniting world. It is an antidote for stress in human society.
3. Self-determination is about peace and the search for a realistic strategy towards peace. To be true to its real form it must be conflict solving and promote mutual trust and cultural tolerance. It must put at rest people's fears and apprehensions and encourage interaction.

IV It is of great significance that the way in which during the 20th Century the conflicting relationships between East and West was addressed (partly) through self-determination, the logical or perhaps the unavoidable consequence of the process was the growing "North-South" problem - i.e. the problem of the rich and the poor, the developed and the underdeveloped, the haves and the have-nots.

In the dynamics of the world society it is as though history has signalled a warning that unless this problem of global development is concurrently addressed adequately the peace of self-determination will prove to be a fallacy and a false hope. Self-determination must be accompanied with a strategy for overall development or it will in the end be overtaken by a dimension of misery and historic futility that would render the effort meaningless in any way.

Looking at it in a positive way it is exactly this effort at development that can bring about meaningful interaction that can promote mutual understanding and consequently peace. The challenge today is to find effective ways of co-existence within the pluralist society. And that is indeed what happens in Europe today in the dialogue on minority rights. The real issue is to find an alternative to individualist liberalism that will cater also for the collective value systems and expectations of ethnic and cultural groups in one society. So even in the issue around minority rights, self-determination is the search for peaceful co-existence.

Self-determination and the protection of minority rights played a very important role in pronouncements of the Secretary General of the United Nations in recent years. In June 1992 he issued a report based on a summit meeting of the Security Council of the same year. Significantly the over-all title of this report was: *An agenda for peace. Preventative diplomacy, peacemaking and peace-keeping.*

On the occasion of the 50th Anniversary of the United Nations he added a supplement to the agenda for peace. It was dated 3 January 1995.

For a number of years now there has developed an universal precondition for the application of the principle of self-determination especially when it was applied in circumstances outside of the problem of colonialism. The precondition also applied to post-colonial states. This precondition was that a claim to self-determination was valid as long as it did not affect the integrity of the existing state.

The Unity of the state, even of post-colonialist states, was a consideration that was supposed to be given preference over possible claims for self-determination. That is, for instance, why the secession of Katanga was unacceptable to the international community.

The fear generally, that was underlying this precondition, was the possibility that self-determination if applied injudiciously, would lead to disintegration of existing states which would not be in the interests of all involved in the existing state.

A consequence of the rigid application of this precondition however was that regional and internal conflicts and simmering discontent have in recent years developed in many parts of the world to the extent that it has caused universal concern. The search is on for a remedy to these conflicts that in many cases have developed in wars and even in genocide. In Africa we had our fair share of this.

The hard realities of conflict and war and the shocks of genocide have made it clear that sensible accommodation of minority claims is perhaps of equal importance - equal to the accepted rule of the inviolability of the state. Or to put it differently: In the interest of the integrity of the state, legitimate claims of self-determination cannot be ignored. For the unity or the strength of the state lies in the content of its citizens. Willing partners are needed to build one nation in the context of the one state. This has recently become an acute problem within the U.N.O.

The Secretary General therefore suggests a new approach. I quote from his report: "The sovereignty, territorial integrity and independence of States within the established international system, and the principle of self-determination for peoples, both of great value and importance must not be permitted to work against each other in the period ahead. Respect for democratic principles at all levels of social existence is crucial: in communities, within States and within the community of States. Our constant duty should be to maintain the integrity of each while finding a balanced design for all." And in section 59 he refers in this regard to the need for the strengthening of "new democratic institutions."

Self-determination more and more today has an extended application in the search for social peace. It is not a threat to democracy the way some seems to think about it. It is an extension and strengthening of democracy. For it ensures social peace and stability. And therefore it facilitates development.

That is why we ask for what we have a right to in terms of international practice today: Community self-determination in terms of Article XXXIV of the constitutional principles. This, gentlemen, is the first and foremost guiding principle of the Freedom Front in the new political dispensation. So let it be known to all what we mean by self-determination:

We in the Freedom Front have negotiated this principle on self-determination because we are part and want to be part of the future South Africa. We don't suffer from the syndrome of withdrawal. At the same time we want to retain our own in the way Africa and Asia wanted to retain what is their own over against the over-imposing and dominating West. We, like the nations of Africa and Asia, claim some right to self-determination, i.e. to determine our own destiny because we fear cultural over-powerment and eventual extinction.

We have a mandate from Afrikaners who have developed their own perception of nationhood. With some this meets respect, with other ridicule. But it is there. We had, like the peoples of Africa and Asia our own struggle for independence. In this struggle we led the violent resistance against Imperialism, against foreign domination in culture and politics. In this struggle we have built our own identity which, right or wrong, is precious to us.

We want to affirm that, whatever cultural political and attitudinal differences may at present cause strain and conflict in the broader South African society, we respect and honour the peoples we share this land with.

We have no desire to withdraw in some laager. We accept the challenge of co-existence and the need for democratization, full democratization which includes self-determination for communities who prefer it.

We state firmly our belief that the application of the principle of self-determination at this moment in time will be a contribution to peace and a step towards the building of a sovereign and stable state in South Africa. It will be in the interest of not only Afrikaners, but of all. This will be our thrust in constitutional negotiation.

We have to find agreement on how to reconcile both the ideal of the development of a non-racial democracy and self-determination for our people. The effort will be to find constitutional institutions that will enable us to find maximum community autonomy, that in the end will be contributing to what you call nation-building.

.....  
**GEN.C.L. VILJOEN**

**ACCORD ON  
AFRIKANER SELF-  
DETERMINATION BETWEEN  
THE FREEDOM FRONT, THE  
AFRICAN NATIONAL  
CONGRESS AND THE SOUTH  
AFRICAN  
GOVERNMENT/NATIONAL  
PARTY**

**21 APRIL 1994**

**TAKING NOTE**

of the Constitution of the Republic of South Africa, Act 200 of 1993 as amended;

and

**TAKING NOTE**

of the unsigned Memorandum of Agreement between the African National Congress (ANC) and the Afrikaner-Volksfront (AVF), dated December 21, 1993;

and

### TAKING NOTE

of Constitutional Principle XXXIV, dealing with the issue of self-determination;

and

### SUBSEQUENT

to the discussions between the delegations of the ANC, the AVF, the South African Government and eventually the Freedom Front (FF) -

The parties represented by these delegations record the following agreement:

1. The parties agree to address, through a process of negotiations, the ideal of Afrikaner self-determination, including the concept of a Volkstaat.
2. The parties further agree that in the consideration of these matters, they shall not exclude the possibility of local and/or regional and other forms of expressions of such self-determination.
3. They agree that their negotiations shall be guided by the need to be consistent with and shall be governed by the requirement to pay due consideration to Constitutional Principle XXXIV, other provisions of the Constitution of the Republic of South Africa, Act 200 of 1993 as amended, and that the parties take note of the Memorandum of Agreement, as referred to above.

[The Appendix to this Accord contains copies of these documents perused by the delegations.]

- 3.1 Such consideration shall therefore include matters such as:
  - 3.1.1 substantial proven support for ideal of self-determination in a Volkstaat;
  - 3.1.2 the principles of democracy, non-racialism and fundamental rights; and
  - 3.1.3 the promotion of peace and national reconciliation.
4. The parties further agree that in pursuit of 3.1.1 above, the support for the ideal self-determination in a Volkstaat will be indicated by the electoral support which parties with a specific mandate to pursue the realisation of a Volkstaat, will gain in the forthcoming election.
  - 4.1 The parties also agree that, to facilitate the consideration of the idea of a Volkstaat after the elections, such electoral support should be measured not only nationally, but also by counting the provincial votes at the level of:
    - 4.1.1 the electoral district; and
    - 4.1.2 the polling station as indicated to the Independent Electoral Commission by the Freedom Front, and where practical.
5. The parties agree that the task of the Volkstaatraad shall be to investigate and report to the Constitutional Assembly and the Commission on the Provincial Government on measures which can give effect to the ideal of Afrikaner self-determination, including the concept of the Volkstaat.

6. The parties further agree that the Volkstaatraad shall form such advisory bodies as it may determine.
7. The parties undertake to discuss among themselves and reach agreement on matters relating to matters affecting stability in the agricultural sector and the impact of the process of transition on this sector.
8. The parties agree that they will address all matters of concern to them, including matters of stability and the possibility of indemnity, through negotiations and that this shall not exclude the possibility of international ~~mediation to help resolve~~ such matters as may be in dispute and/or difficult to conclude.
  - 8.1 The parties also agree that paragraph 8.0 shall not be read to mean that any of the deliberations of the Constitutional Assembly are subject to international mediation, unless the Constitutional Assembly duly amends the Constitution to enable this to happen.
  - 8.2 The parties also affirm that, where this Accord refers to the South African Government, it means only the South African Government which will rule South Africa until the April 1994-elections.
9. The parties commit themselves to the consideration of the ideal of self-determination and the concept of a Volkstaat, before and after the April 1994-elections, with a view to facilitating the work of the relevant constitutional structures, which will deal with this matter after the said elections.

**SIGNED BY:**

.....  
**GENL CONSTAND VILJOEN**  
**LEADER: FREEDOM FRONT**

.....  
**MR THABO MBEKI**  
**NATIONAL CHAIRMAN:**  
**AFRICAN NATIONAL CONGRESS**

.....  
**MR ROELF MEYER**  
**MINISTER OF CONSTITUTIONAL DEVELOPMENT**  
**AND OF COMMUNICATION**

**WITNESSED BY:**

.....  
**PROF ABRAHAM VILJOEN**

.....  
**MR JURGEN KÖGL**

**April 22, 1994**



# APPENDIX

## Chapter 1

### Constitutional Principle XXXIV

1. This Schedule and the recognition therein of the right of the South African people as a whole to self-determination, shall not be construed as precluding, within the framework of the said right, constitutional provision for a notion of the right to self-determination by any community sharing a common ~~cultural and language~~ heritage, whether in a territorial entity within the Republic or in any other recognised way.
2. The Constitution may give expression to any particular form of self-determination provided there is substantial proven support within the community concerned for such a form of self-determination.
3. If a territorial entity referred to in paragraph 1 is established in terms of this Constitution before the new constitutional text is adopted, the new Constitution shall entrench the continuation of such territorial entity, including its structures, powers and functions.

## Chapter 2

### Chapter 11A: Volkstaat Council

#### *Provision for establishment of a Volkstaat Council*

184A. (1) The establishment of a Volkstaat Council is hereby authorised.

(2) The Council shall consist of 20 members elected by members of Parliament who support the establishment of a Volkstaat for those who want it.

(3) The Council shall conduct its affairs according to rules made by the Council.

### *Functions of Council*

184(b) (1) The Council shall serve as a constitutional mechanism to enable proponents of the idea of a Volkstaat to constitutionally pursue the establishment of such a Volkstaat, and shall for this purpose be competent -

- (a) to gather, process and make available information with regard to possible boundaries, powers and functions and legislative, executive and other structures of such a Volkstaat, its suggested constitutional relationship with government at national and provincial level, and any other matter directly relevant to the establishment of such a Volkstaat;
- (b) to make feasibility and other relevant studies with regard to the matters referred to in paragraph (a);
- (c) to submit representations and recommendations to the Constitutional Assembly and the Commission on Provincial Government with regard to the possible establishment of a Volkstaat and any matter in connection therewith; and
- (d) to perform such other functions as may be prescribed by an Act of Parliament.

(2) The procedures to be followed by the Council in the performance of its functions under subsection (1), shall be prescribed by an Act of Parliament.

(3) The procedures provided for in this Constitution with regard to the finalisation of provincial boundaries, shall not be construed as precluding the establishment of such a Volkstaat, and in the event of the acceptance of the concept of a Volkstaat, alternative provision shall be made by an Act of Parliament for the finalisation of the boundaries of any affected province or provinces.

### Chapter 3

(UNSIGNED - 21 DECEMBER 1993)

#### **Memorandum of Agreement between the African National Congress and the Afrikaner-Volksfront**

The delegations of the African National Congress and the Afrikaner-Volksfront have met on numerous occasions to discuss matters arising from the political transition in South Africa.

**1. These discussions have resulted in the following agreements of understanding:**

- 1.1 Both parties are committed to the development of a non-racial democracy. They both accept that many Afrikaners also have a commitment to the ideal of self-determination in a Volkstaat and that this ideal should be addressed expeditiously, without delaying the current process of transition.

Both parties reject any political suggestions which would embody racism and failed apartheid policies.

Proceeding from its perception of the balance of political forces, the AVF has been unambiguous in its rejection of communism as an acceptable political system.

- 1.2 Both parties believe that the objectives stated above are attainable, and that a suitable political solution can be found

through a process of negotiations. The formulation of this solution demands commitment founded on a new vision for the future South Africa, supported by its leadership. Both parties seek constructive engagement in the constitutional process. This is a crucial commitment which will help in addressing the entrenched mistrust and antagonism which exists between the supporters of the Afrikaner-Volksfront and the African National Congress.

- 1.3 Both parties recognise the danger of serious conflict between members of their respective constituencies, and the destructive impact such conflict would have on the future development and property of South Africa. Furthermore, both parties have expressed their concern about the unstable social and political environment in the country, the unacceptable levels of political violence in particular regions, and the levels of crime and general crisis in the maintenance of law and order. All these matters, including the continuing spate of murders of farmers in rural areas, must be addressed collectively as a matter of urgency.
- 1.4 Though the two parties do not share a common position on the proposed schedule for the transitional process they have agreed that a strategic agreement, addressing matters of mutual concern, ought to be entered into. This will facilitate the implementation of the transitional process and the conduct of the elections on 27 April 1994.
2. Therefore, given the above mentioned concerns and considerations, the following agreements are now registered:
  - 2.1 South Africa should be the home to all its inhabitants who share a common future, based on peaceful coexistence, economic interdependence and constitutional governance.
  - 2.2 The two parties are determined to find an acceptable and sustainable accommodation for all in South Africa, bearing in

mind the aspirations of the two parties, their constituencies, and other political formations in the country.

- 2.3 Recognising the role both parties can play in restoring peace and stability, they have agreed on the need to establish an inclusive security system as determined by the working group. The purpose of this will be to address all matters of security and stability. They further agree that similar structures could be established for agriculture and other relevant groupings.
- 2.4 They agree that the aspiration of many Afrikaners to govern themselves in their own territory should be addressed. Accordingly they agreed that a joint working group be established for this purpose, bearing in mind the call made by Dr Mandela, Dr Hartzenberg and General Viljoen for a solution which entrenches reconciliation, prevents conflict, and facilitates cooperation among all people. This working group should complete its task and report back to its principals by 20 January 1994.

The working group should examine, among others, the following issues:

- financial and economic viability of such a region and its monetary and fiscal relationship to the rest of the country;
- civil rights of Afrikaners outside the Volkstaat;
- civil rights of non-Afrikaners inside the Volkstaat;
- the nature of the relationship between the Volkstaat and other local, regional and central government/administrative structures;
- the timetable and process of establishing such a Volkstaat in the light of the existing transitional process; and
- the method of determining support on a geographical basis for the idea of a Volkstaat.

Matters of mutual concern should be discussed and addressed in detail for the purpose of formulating recommendations and solutions.

- 2.5 The parties agreed, as part of this process, to send a joint delegation to Switzerland and Belgium to study how the political systems of these two countries work, and to determine whether aspects of these systems may be helpful in the resolution of the South African conflict.
- 2.6 The AVF, having accepted the ANC's good faith, has undertaken to actively discourage any action calculated to destabilise the transitional process. The culmination of this strategic agreement into a final settlement ~~before end~~ January 1994 will enable the AVF and its affiliates to consider participation in the transitional structures and process, as well as in the elections as scheduled to be held on 27 April 1994.
- 2.7 The ANC, having accepted the bona fides of the AVF, gives its commitment to promote agreements entered into with the AVF, including such constitutional and legislative agreements which may be required for their implementation.
- 2.8 Should any party to this agreement at any stage consider the whole or the specifics of the agreement to have been violated, an attempt at mutual conciliation will be made through the facilitators of the process before any unilateral action is taken.
- 2.9 It was decided that a meeting at leadership level will be convened as soon as possible with the view to:
  - ratification of this agreement;
  - deciding on the time frame for the above proposed actions, and on a way of achieving legitimacy;
  - mandating and monitoring the task of the proposed working committee;
  - public release of the strategic agreement; and

- deciding on ways of marketing these agreements, and publicly confirming all undertakings.

## Chapter 4

### **Guidelines for the deliberations of the Volkstaat Council**

The following guidelines for the deliberations of the Volkstaat Council were discussed by the delegations:

#### **Self-determination:**

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The investigation of the different modes of self-determination and the concept of a Volkstaat. This investigation will be reported to the Constitutional Assembly and the Commission on Provincial Government, including manners in which effect can be given to the different modes of self-determination.

The accommodation of demands for self-determination on a provincial basis, through sub-regional structures within a province as now sanctioned by the amendments to section 160(3) of the constitution, should also be explored.

Proposals for self-determination of local communities through community councils or structures modelled along the lines of similar structures and processes in other parts of the world could be considered.

#### **Citizenship:**

Any form of derived citizenship intended for persons residing in a possible Volkstaat will not be racially based and shall be compatible with internationally accepted norms.

### Advisory Bodies:

A national advisory body attached to the Volkstaat Council and constituted by twenty five representatives elected by local communities in the different provinces, supporting the ideal of self-determination in a Volkstaat, could be established. In the event of the realisation of a concept of the Volkstaat, this body will represent the respective communities within the Volksraad of such a Volkstaat.

## Chapter 5

### ~~Unmandated~~ defining statement on the principle of self-determination

With reference to the central concept of self-determination used in the

Memorandum of Agreements  
Constitutional Principle XXXIV  
and the Accord

the delegations at this stage suffice with the following defining statement, although unmandated:

1. The concept shall in no way be construed as to give support to those fatal racist ideologies of the twentieth century that was based on chauvinistic excessive escalation of identities or even ethnocentrism which bred discrimination, racism and prejudices which on their part brought war, misery and death to many.

Legitimate self-determination instead should be consonant with and indeed flows from the concept of fundamental rights and the constitutional state.



2. The concept of self-determination we therefore could endorse is the universally accepted one that has been expressed in the Charter of the United Nations which serves the purpose of peaceful co-operation between peoples on the basis of mutual respect and recognition of fundamental freedom and basic human rights for all.
3. The legitimate concept of self-determination to us relates to the expressed desire of a substantial community or a people, who has attained through the prolonged experience of a common history, language, culture and often also of land, a sense of cohesion and belonging that universally constitutes the sense of nationhood.

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The concept therefore relates to the need expressed by such a community or people to determine its own destiny and to exercise the right to decide policy and practise with regard to political, constitutional, economic, social, religious and educational matters in a way that is consistent with the peculiar expectations and value systems of such a people.

4. We have assumed that the desire for the exercise of self-determination with such a people must be a popular demand beyond reasonable doubt, a fact which may require substantial proven support through an agreed democratic process.
5. Self-determination within a complex pluralistic society based on inclusive democracy has to be negotiated and implemented with due regard to the rights of other citizens sharing the same territory on a permanent basis. Wider democratic processes must also be recognised.

A balance should be negotiated between the desire of such a people for self-determination and the ideal of peaceful well-being of the larger whole of society.

Self-determination will serve the purpose of building the state and not cause the dislocation of the state. It should facilitate peace and not cause conflict.

6. At the same time self-determination for a people constituting a minority should be considered with due regard to and in full recognition of the legitimate expressed expectations of such a people so as to avoid a type of majority domination that may in itself cause conflict or even the disintegration of the state.
7. In our considerations we have recognised various modes of self-determination. It may involve the negotiation of a territorial entity which may have various degrees of autonomy. This may be augmented by constitutional devices securing various degrees of autonomy over the specific affairs of that community at one or more of the levels of government. We have agreed that the principle of self-determination could be negotiated and applied to suit the demands of each unique situation.
8. The introduction of any form of self-determination through negotiations will need to be accompanied by extensive public information and a raised level of trust.

