

23/4/94 *Stolberg*

Witzman

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

23 APRIL 1994

[Signature]

TAKING NOTE

[Signature]
23-4-94

mediated by:
[Signature]

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

US Ambassador P. N. Lyman

and

UK Ambassador Sir A. Ruge

TAKING NOTE

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

formulated by
Von Zyl Natter +
Breiter Breitenbach

EU - Witnesses
Martin Gullin (Ireland)
Klaus Baron von der Topp
(Germany)

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 idea 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 expression 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 the idea of self-determination including the concept of 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 idea of 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 wherever practical the polling stations as indicated by the parties to, and agreed to, by the Independent Electoral Commission.

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 idea 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. In addition to the issue of self-determination, the parties also 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, and also matters of stability including the issue of indemnity inasmuch as the matter has not been resolved.
8. The parties further agree that they will address all matters of concern to them 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 refers to the South African Government which will rule South Africa until the April 1994-elections.

SIGNED BY:

Constans Viljoen
.....
GENL CONSTAND VILJOEN
LEADER: FREEDOM FRONT 23/4/94

Thabo Mbeki
.....
MR THABO MBEKI
NATIONAL CHAIRMAN: 23/04/94.
AFRICAN NATIONAL CONGRESS

R. Meyer
..... 23.04.1994.
MR ROELF MEYER
MINISTER OF CONSTITUTIONAL DEVELOPMENT
AND OF COMMUNICATION ON BEHALF OF THE
GOVERNMENT AND THE NATIONAL PARTY

WITNESSED BY:

Abraham Viljoen
.....
PROF ABRAHAM VILJOEN

J. Kögl
.....
MR JURGEN KÖGL

April 23, 1994

Gesertifiseer 'n ware afskrif
van die oorspronklike.
Certified a true copy
of the original.

[Signature]
THEO PIETER COETZEE
Kommissaris van Ede
Praktiserende Prokureur
Republiek van Suid-Afrika
Du Plooystraat 17
Potchefstroom 2520

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:

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.

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.