

Country/entity	South Africa
Region	Africa (excl MENA)
Agreement name	Record of Understanding Between the State President of the Republic of South Africa and the Presidency of the African National Congress
Date	26 Sep 1992
Agreement status	Multiparty signed/agreed
Interim arrangement	Yes
Agreement/conflict level	Intrastate/intrastate conflict Post Apartheid South Africa and Namibian Independence (1990 - 1994) South Africa – internal. The roots of the modern South African conflict are found in the British and Dutch colonization of Southern Africa, which resulted in the introduction of a white minority who soon held power in the region. The South African state emerged following a hard-fought pact between the British government and the white Afrikaner minority. ‘Apartheid’ – the Afrikaans word for separateness – became official government policy after 1948. Resistance to this system was widespread and took diverse forms. In 1912, the African National Congress (ANC) was formed to push for reforms in the country. After the 1960 Sharpeville massacre several organisations around the ANC took up arms and began to fight the Apartheid government using violent means. During the 1980s, President P.W. Botha introduced a reform policy that enabled the post-1990 peace agreements, which paved the way for the end of the apartheid system. South Africa- Namibia. One set of agreements relates to the independence of Namibia which followed from the end of apartheid. Close Post Apartheid South Africa and Namibian Independence (1990 - 1994)
Stage	Pre-negotiation/process
Conflict nature	Government
Peace process	South Africa peace process
Parties	F W de Klerk, State President; [South African Government] N R Mandela, President: ANC;
Third parties	-
Description	Agrees principles around prisoner release and need for democratic government as basis for resumption of the negotiation process; parties agree to hold further meetings on free political activity, security legislation, special forces, and violence.

Agreement document

[ZA_920926 Record of Understanding.pdf \(opens in new tab\)](#) | [Download PDF](#)

Groups

Children/youth No specific mention.

Disabled persons No specific mention.

Elderly/age No specific mention.

Migrant workers No specific mention.

**Racial/ethnic/
national group** No specific mention.

Religious groups No specific mention.

Indigenous people No specific mention.

Other groups No specific mention.

**Refugees/displaced
persons** No specific mention.

Social class No specific mention.

Gender

**Women, girls and
gender** No specific mention.

Men and boys No specific mention.

LGBTI No specific mention.

Family No specific mention.

State definition

Nature of state (general) No specific mention.

State configuration No specific mention.

Self determination No specific mention.

Referendum No specific mention.

State symbols No specific mention.

Independence/ secession No specific mention.

Accession/ unification No specific mention.

Border delimitation No specific mention.

Cross-border provision No specific mention.



Governance

Political institutions (new or reformed)	<p>Governance→Political institutions (new or reformed)→Temporary new institutions</p> <p>Page 1, 2 (b) The Government and the ANC agreed that during the interim/transitional period there shall be constitutional continuity and so constitutional hiatus. In consideration of this principle, it was further agreed that: the constitution-making body/constituent assembly shall also act as the interim / transitional Parliament; there shall be an interim/transitional government of national unity. the constitution-making body/constituent assembly cum interim/transitional Parliament and the interim/transitional government of national unity shall function within a constitutional framework/transitional constitution which shall provide for national and regional government during the period of transition and shall incorporate guaranteed justiciable fundamental rights and freedoms. The interim/transitional Parliament may function as a one-or two-chambered body.</p>
Elections	<p>Page 1, 2. The understandings on issues and obstacles included the following, although it was observed that there are still other important matters that will receive attention during the process of negotiation: (a) The Government and the ANC agreed that there is a need for a democratic constitution assembly/constitution-making body and that for such a body to be democratic it must: be democratically elected; ... have a fixed time frame; ... be elected within an agreed predetermined time period.</p>
Electoral commission	No specific mention.
Political parties reform	No specific mention.
Civil society	No specific mention.
Traditional/religious leaders	No specific mention.

Public administration

No specific mention.

Constitution

Governance→Constitution→Constitutional reform/making
Page 1,

2. The understandings on issues and obstacles included the following, although it was observed that there are still other important matters that will receive attention during the process of negotiation:

(a) The Government and the ANC agreed that there is a need for a democratic constitution assembly/constitution-making body and that for such a body to be democratic it must:

be democratically elected;

draft and adopt the new constitution, implying that it should sit as a single chamber;

be bound only by agreed constitutional principles;

have a fixed time frame;

have adequate deadlock breaking mechanisms;

function democratically i.e. arrive at its decisions democratically with certain agreed to majorities; and

be elected within an agreed predetermined time period.

Power sharing

Political power sharing

Power sharing→Political power sharing→General
State level
Page 1,

2. (b) The Government and the ANC agreed that during the interim/transitional period there shall be constitutional continuity and so constitutional hiatus. In consideration of this principle, it was further agreed that:

... there shall be an interim/transitional government of national unity.

Territorial power sharing

No specific mention.

Economic power sharing

No specific mention.

Military power sharing

No specific mention.

Human rights and equality

Human rights/RoL general Page 1,
2. (b) The Government and the ANC agreed that during the interim/transitional period there shall be constitutional continuity and so constitutional hiatus. In consideration of this principle, it was further agreed that:
... the constitution-making body/constituent assembly cum interim/transitional Parliament and the interim/transitional government of national unity shall function within a constitutional framework/transitional constitution which shall provide for national and regional government during the period of transition and shall incorporate guaranteed justiciable fundamental rights and freedoms. The interim/transitional Parliament may function as a one-or two-chambered body.

Bill of rights/similar No specific mention.

Treaty incorporation No specific mention.

Civil and political rights Human rights and equality→Civil and political rights→Other
Page 2,
2. (f) The Government acknowledges the right of all parties and organisations to participate in peaceful mass action in accordance with the provisions of the National Peace Accord and the Goldstone Commissions' recommendations. The ANC for its part reaffirms its commitment to the provisions of the Code of Conduct for Political Parties arrived at under the National Peace Accord and the agreement reached on 16 July 1992 under the auspices of the Goldstone Commission as important instruments to ensure democratic political activity in a climate of free political participation.

Page 3,
3. The two parties agreed to hold further meetings in order to address and finalise the following matters which were not completed at the summit:
Climate of free political activity.
Repressive/security legislation.
Covert operations and special forces.
Violence.

Socio-economic rights No specific mention.

Rights related issues

Citizenship	No specific mention.
Democracy	<p>Page 1, 2. The understandings on issues and obstacles included the following, although it was observed that there are still other important matters that will receive attention during the process of negotiation: (a) The Government and the ANC agreed that there is a need for a democratic constitution assembly/constitution-making body and that for such a body to be democratic it must: be democratically elected; ... function democratically i.e. arrive at its decisions democratically with certain agreed to majorities; and be elected within an agreed predetermined time period.</p> <p>Page 2, 2. (f) The Government acknowledges the right of all parties and organisations to participate in peaceful mass action in accordance with the provisions of the National Peace Accord and the Goldstone Commissions' recommendations. The ANC for its part reaffirms its commitment to the provisions of the Code of Conduct for Political Parties arrived at under the National Peace Accord and the agreement reached on 16 July 1992 under the auspices of the Goldstone Commission as important instruments to ensure democratic political activity in a climate of free political participation. The two parties also commit themselves to the strengthening of the Peace Accord process, to do everything in their power to calm down tensions and to finding ways and means of promoting reconciliation in South Africa. In view of the progress made in this summit and the progress we are likely to make when negotiations are resumed, the ANC expresses its intention to consult its constituency on a basis of urgency with a view to examine the current programme of mass action.</p> <p>Page 3, 3. The two parties agreed to hold further meetings in order to address and finalise the following matters which were not completed at the summit: Climate of free political activity.</p>
Detention procedures	No specific mention.
Media and communication	No specific mention.
Mobility/access	No specific mention.
Protection measures	No specific mention.
Other	No specific mention.

Rights institutions

NHRI No specific mention.

Regional or international human rights institutions No specific mention.

Justice sector reform

Criminal justice and emergency law Justice sector reform→Criminal justice and emergency law→Reform to specific laws
Page 2,
2. (c) ... As the process of identification proceeds, releases shall be effected in the above-mentioned staged manner. Should it be found that the current executive powers of the State do not enable it to give effect to specific releases arising from the above identification the necessary legislation shall be enacted.

Page 3,
3. The two parties agreed to hold further meetings in order to address and finalise the following matters which were not completed at the summit:
... Repressive/security legislation.

State of emergency provisions No specific mention.

Judiciary and courts Page 1,
2. (b) The Government and the ANC agreed that during the interim/transitional period there shall be constitutional continuity and so constitutional hiatus. In consideration of this principle, it was further agreed that:
... the constitution-making body/constituent assembly cum interim/transitional Parliament and the interim/transitional government of national unity shall function within a constitutional framework/transitional constitution which shall provide for national and regional government during the period of transition and shall incorporate guaranteed justiciable fundamental rights and freedoms. The interim/transitional Parliament may function as a one-or two-chambered body.

Prisons and detention No specific mention.

Traditional Laws No specific mention.

Socio-economic reconstruction

Development or socio-economic reconstruction No specific mention.

National economic plan No specific mention.

Natural resources No specific mention.

International funds No specific mention.

Business No specific mention.

Taxation No specific mention.

Banks No specific mention.

Land, property and environment

Land reform/rights No specific mention.

Pastoralist/nomadism rights No specific mention.

Cultural heritage No specific mention.

Environment No specific mention.

Water or riparian rights or access No specific mention.

Security sector

Security Guarantees

Page 2,

2. (d) [...] In the meantime some problematic hostels have been identified and the Government has undertaken as a matter of urgency to address and deal with the problem in relation to those hostels that have been associated with violence. Further measures will be taken, including fencing and policing to prevent criminality by hostel dwellers and to protect hostel dwellers against external aggression. A separate document (Implementation Programme: Hostels) records the identification of such hostels and the security measures to be taken in these instances.

Progress will be reported to the Goldstone Commission and the National Peace Secretariat. United Nations observers may witness the progress in co-operation with the Goldstone Commission and the National Peace Secretariat.

Page 2,

2. (e) In the present volatile atmosphere of violence the public display and carrying of dangerous weapons provokes further tension and should be prohibited. The Government has informed the ANC that it will issue a proclamation within weeks to prohibit countrywide the carrying and display of dangerous weapons at all public occasions subject to exemptions based on guidelines being prepared by the Goldstone Commission. The granting of exemptions shall be entrusted to one or more retired judges. On this basis, the terms of the proclamation and mechanism for exemption shall be prepared with the assistance of the Goldstone Commission.

Page 2,

2. (f) The Government acknowledges the right of all parties and organisations to participate in peaceful mass action in accordance with the provisions of the National Peace Accord and the Goldstone Commissions' recommendations. The ANC for its part reaffirms its commitment to the provisions of the Code of Conduct for Political Parties arrived at under the National Peace Accord and the agreement reached on 16 July 1992 under the auspices of the Goldstone Commission as important instruments to ensure democratic political activity in a climate of free political participation. The two parties also commit themselves to the strengthening of the Peace Accord process, to do everything in their power to calm down tensions and to finding ways and means of promoting reconciliation in South Africa. In view of the progress made in this summit and the progress we are likely to make when negotiations are resumed, the ANC expresses its intention to consult its constituency on a basis of urgency with a view to examine the current programme of mass action.

Page 3,

3. The two parties agreed to hold further meetings in order to address and finalise the following matters which were not completed at the summit:

Climate of free political activity.

Repressive/security legislation.

Covert operations and special forces.

Violence.

Ceasefire

No specific mention.

Police	Page 2, 2. (d) [...] In the meantime some problematic hostels have been identified and the Government has undertaken as a matter of urgency to address and deal with the problem in relation to those hostels that have been associated with violence. Further measures will be taken, including fencing and policing to prevent criminality by hostel dwellers and to protect hostel dwellers against external aggression. A separate document (Implementation Programme: Hostels) records the identification of such hostels and the security measures to be taken in these instances. Progress will be reported to the Goldstone Commission and the National Peace Secretariat. United Nations observers may witness the progress in co-operation with the Goldstone Commission and the National Peace Secretariat.
Armed forces	Page 3, 3. The two parties agreed to hold further meetings in order to address and finalise the following matters which were not completed at the summit: ... Covert operations and special forces.
DDR	No specific mention.
Intelligence services	No specific mention.
Parastatal/rebel and opposition group forces	No specific mention.
Withdrawal of foreign forces	No specific mention.
Corruption	No specific mention.
Crime/organised crime	No specific mention.
Drugs	No specific mention.
Terrorism	No specific mention.

Transitional justice

Transitional justice general	No specific mention.
Amnesty/pardon	No specific mention.
Courts	No specific mention.

Mechanism	No specific mention.
Prisoner release	<p>Page 1,</p> <p>2. (c) The two parties are agreed that all prisoners whose imprisonment is related to political conflict of the past and whose release can make a contribution to reconciliation should be released.</p> <p>[Page 2] The Government and the ANC agreed that the release of prisoners, namely, those who according to the ANC fall within the guidelines defining political offences, but according to the Government do not, and who have committed offences with a political motive on or before 8 October 1990 shall be carried out in stages (as reflected in a separate document: IMPLEMENTATION PROGRAMME: RELEASE OF PRISONERS) and be completed before 15 November 1992. To this end the parties have commenced a process of identification. It is the Government's position that all who have committed similar offences but who have not been charged and sentenced should be dealt with on the same basis. On this question no understanding could be reached as yet and it was agreed that the matter will receive further attention.</p> <p>As the process of identification proceeds, releases shall be effected in the above-mentioned staged manner. Should it be found that the current executive powers of the State do not enable it to give effect to specific releases arising from the above identification the necessary legislation shall be enacted.</p>
Vetting	No specific mention.
Victims	No specific mention.
Missing persons	No specific mention.

Reparations	No specific mention.
Reconciliation	<p>Page 1, 2. (c) The two parties are agreed that all prisoners whose imprisonment is related to political conflict of the past and whose release can make a contribution to reconciliation should be released.</p> <p>Page 2, 2. (f) The Government acknowledges the right of all parties and organisations to participate in peaceful mass action in accordance with the provisions of the National Peace Accord and the Goldstone Commissions' recommendations. The ANC for its part reaffirms its commitment to the provisions of the Code of Conduct for Political Parties arrived at under the National Peace Accord and the agreement reached on 16 July 1992 under the auspices of the Goldstone Commission as important instruments to ensure democratic political activity in a climate of free political participation. The two parties also commit themselves to the strengthening of the Peace Accord process, to do everything in their power to calm down tensions and to finding ways and means of promoting reconciliation in South Africa. In view of the progress made in this summit and the progress we are likely to make when negotiations are resumed, the ANC expresses its intention to consult its constituency on a basis of urgency with a view to examine the current programme of mass action.</p>

Implementation

UN signatory	No specific mention.
Other international signatory	No specific mention.
Referendum for agreement	No specific mention.
International mission/force/similar	No specific mention.
Enforcement mechanism	<p>Page 2, 2. (d) [...] Progress will be reported to the Goldstone Commission and the National Peace Secretariat. United Nations observers may witness the progress in co-operation with the Goldstone Commission and the National Peace Secretariat.</p>
Related cases	No specific mention.
Source	<p>ANC website www.anc.org.za [link no longer working]</p>