

Record of Understanding Between ANC and Government

26 September 1992

1. Since 21 August 1992 a series of meetings was held between Mr Roelf Meyer, Minister of Constitutional Development and Mr Cyril Ramaphosa, Secretary General of the African National Congress.

These meetings entailed discussions with a view to remove obstacles towards the resumption of negotiations and focused on the identification of steps to be taken to address issues raised in earlier memoranda. The discussions took note of various opposing viewpoints on the relevant issues and obstacles. It was decided that these issues should not be dealt with exhaustively in the understanding. This document reflects the understanding reached at the conclusion of the discussions regarding these obstacles and issues.

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.

Within the framework of these principles, detail would have to be worked out in the negotiation process.

(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.

(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.

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.

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.

(d) The Goldstone Commission has given further attention to hostels and brought out an urgent report on certain matters and developments on this regard. The commission indicated that the problem is one of criminality and that it will have to investigate which localities are affected.

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.

(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.

(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.

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.

Agreed to at Johannesburg on 26 September 1992:

F W de Klerk	N R Mandela
State President	President: ANC