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**MEMORANDUM FOR PRESENTATION TO DR NEILS HELVEG
PETERSEN, DANISH MINISTER OF FOREIGN AFFAIRS**

**BY MANGOSUTHU BUTHELEZI, CHIEF MINISTER OF KWAZULU
AND PRESIDENT OF INKATHA FREEDOM PARTY**

COPENHAGEN : SEPTEMBER 3, 1993

Mr Minister it is for me an honour and a pleasure to have a discussion with you on my brief visit to Denmark. I thank you for the cordial invitation you extended to me. I would also like to thank you and the Danish Government for the cordial welcome that I have so far received. When we met in Cape Town, I would not have imagined that that meeting would be followed by another one on Danish soil.

Denmark has a proud record of having supported black South Africans in their struggle against apartheid. For this we in the IFP are grateful. However, it is unfortunate that your support for our struggle against apartheid extended only

to those organisations which had waged a high profile campaign from exile, while you ignored those who fought apartheid rule from within. As many political commentators will tell you, it was the actions of those who remained in South Africa, far more than that of the armed struggle or sanctions, which brought the apartheid government to its knees. As even our detractors will admit, it was Inkatha's refusal to accept so-called independence for KwaZulu, amongst other things, which finally rendered Verwoerd's grand dream of apartheid unworkable.

While we in the Inkatha Freedom Party are disappointed at the lack of international recognition for our efforts to bring about the end of apartheid, we do know that our efforts have not gone unnoticed. Our vigorous defence of liberty and democratic values and our refusal to use our people as cannon fodder in our struggle has won us many friends. Although the ANC might parade itself as the sole liberator of black South Africa, those old enough to know will tell you how their "people's war", and sanction campaigns have condemned them to a lifetime of intimidation, hardship and poverty.

For all that has gone before, today South Africa stands at the door of liberation. Whether we achieve true democracy will depend less on the politics of the past than on what we do now. It will depend less on past strategies to bring about the demise of apartheid than on our vision for the future. This we in the IFP are keenly aware of. That is why we are devoting our full attention to the attainment of a constitution which guarantees peace, justice and democracy.

South Africa hopes for a democratic future, free from the domination and oppression of the past. We in the IFP believe it lies within our ability to secure for our country a federal constitution which incorporates the right of self-

determination for our ethnically-diverse population. Whether we can achieve this ideal will, however, depend on the successful completion of our painful transformation process. Our transformation process is a process which got under way with President de Klerk's courageous commitment to the abolition of apartheid in February 1990 and which has seen us reach the stage where negotiators have tabled two drafts of an interim constitution at multi-party talks.

To the outside observer the fact that we are well on our way to writing up a constitution might seem an accomplishment. We in the IFP however beg to

differ. For us the two drafts which have been tabled are the flawed products of a two-phased process which holds no prospect of a successful outcome. It is a two-phased process which would leave the writing up of a final constitution to the discretion of a popularly elected Constituent Assembly. With the power of writing the final constitution delegated to it, this Constituent Assembly could either amend, alter or even scrap any interim constitution put before it. This holds the inherent danger that our constitution would then be written according to the dictates of political expediency rather than according any desire to securing a constitution which would satisfy the hopes and aspirations of all South Africans.

Probably most disturbing of all, however - and unknown to many foreign observers - is the fact these two draft interim constitutions are the outcome of an African National Congress/National Party pact which will see a centralised state foisted on South Africa with little room for the evolution of a federal dispensation. Having fought for a federal democracy for so long we in the IFP gave notice that we could not countenance this blatant manipulation of the negotiations process. After repeatedly warning the ANC and the Government that we will not take part in a process which delivered a centralised and unitary state, and after having our warnings ignored, we felt that it would serve no purpose to continue taking part in this process. So our IFP delegation and the

KwaZulu Government delegation walked out after being ignored quite a number of times. We therefore withdrew from talks and are at present not taking part in negotiations.

In any normal society our decision to withdraw from negotiations would have been treated with shock and dismay. As one of the three largest political forces in the country, it goes without saying that there cannot be a resolution to our problems without the IFP's participation or agreement. Yet this is precisely what the ANC and the National Party have attempted to do through the use of the concept of 'sufficient consensus'.

In terms of the concept of 'sufficient consensus' the Negotiating Council at Multi-Party talks instructed the Technical Committee on Constitutional Matters to draw up an interim draft constitution. It was also through the use of "sufficient consensus" that the election date for South Africa's first non-discriminatory election was set.

These two decisions to write up a constitution and set an election date are not objectionable to the IFP per se. We, along with other liberation movements, have long fought for the day when we would be able to draw up a new non-discriminatory constitution and would be able to set an election date for our first

democratic election. However, along with our desire for democracy and justice we have felt that these land-mark decisions should take place only after certain foundations have been laid. One condition, which I have no doubt the majority of level-headed people will support, is that an election date be set only after we have agreed on the form of state South Africa is to take. Put simply, South Africans deserve to know what we are holding elections for. The other condition, which again we feel is reasonable, if not desirable, is that the constitution we agree to should be a final one and not some half-baked affair.

Unfortunately our calls for these two conditions to be met were brushed over. The instruction to draft an interim constitution was taken in terms of the ANC's constitutional proposals which would see our final constitution being written up by a popularly-elected Constituent Assembly after a two-phased transitional process. This goes against our heart-felt plea that if South Africa is to have a lasting constitution then it will have to be written by constitutional experts representing all of our South African society's views and not by any popularly elected body which merely represents the views of the majority.

Also of critical importance for our desire to secure a federal system of government is that a federal constitution be written now and not after any election. Allowing a constitution to be written after an election invites a destructive election campaign being waged on the basis of who would write the constitution. Considering the high levels of violence already experienced and the potential for further violence and intimidation inherent in this approach, we have rejected this two-phased process out of hand.

However, adamant that they were not going to be deterred in their quest for a centralised, unitary state, the ANC forged an alliance with the government they

were at war with and together they have used the concept of "sufficient consensus" to get around our objections. This decision to over-ride our objections went against the spirit in which negotiations were first agreed to be undertaken. At the very beginning of the negotiations process, it was unanimously agreed that, in terms of forging out a new constitution, decision-making would be made by consensus. This of course meant that there would be no counting of hands in any rush to find agreement on critical issues. However, in order to stop any insignificant or obstructionist party from holding negotiations to ransom, it was also decided to incorporate the concept of 'sufficient consensus' to the decision-making process. Put simply, 'sufficient

consensus' meant that negotiations could go ahead in despite of the fact that one or more parties might be in disagreement to any decision.

However, it was also agreed that since 'sufficient consensus' was a vague concept which could easily be abused, it was to be used with caution and only after all other avenues had been exhausted. This did not happen. From the very beginning negotiations were plagued by secret deals between the ANC and the National Party. This connivance was designed to give the Government a face-saving last few years of power and the ANC their demand for a Constituent Assembly to write up our constitution. From the beginning we

have witnessed concerted efforts by the ANC/South African Government alliance to sideline us and any other party which threatens to put a spoke in the wheel in their quest for a power-sharing arrangement.

Despite the fact that we were aware of the deal made between the ANC and the Government we continued with negotiations in the hope that we could overcome their dishonest plans. Throughout negotiations we consistently questioned the bona fides of these two organisations. Throughout, we incessantly objected to the flagrant contempt shown by the ANC and the Government to negotiations. We constantly warned that their actions would lead to a deadlock. Despite our

objections these two parties were not to be deterred. We were therefore left with no choice but to withdraw from talks.

Our decision to withdraw from talks was not taken lightly, however. We in the IFP, more so than any other party, are keenly aware of the need to secure a quick settlement to our country's problems. It has been our party more than any other which has borne the brunt of the violence sweeping our country. The extent to which we have suffered is clear from the fact that thousands of our supporters have been killed by revolutionaries within the ANC/South African Communist Party alliance. Of particular concern to us is that more than 300

of our leaders have been assassinated by the armed wing of the ANC, uMkhonto. weSizwe.

Despite the cost in human lives that we are suffering, we are unbowed in our commitment to democracy. Despite the attempt to wipe us off the political landscape we are not prepared to accept a unitary state where the wishes of the region of Natal/Kwazulu - or any other region - are ignored. From the standpoint of our desire to secure a just and democratic federal democracy for our country, we feel that we were justified in our decision to walk out from a process which will only be able to deliver a unitary centralised state.

In spite of our insistence that we are not prepared to accept anything except a genuine federal system of government and are therefore prepared to stay out of negotiations until our reasonable demands are met, we in the IFP nevertheless do believe that a solution to our country's problems lies only in a negotiated settlement. That is why we are continuing with bilateral meetings with the Government and the ANC in order to find a way out of the impasse. However, in order to prevent a reoccurrence of the undemocratic decision-making which has plagued the negotiating process, we insist that before we return to the negotiating table the whole question of decision-making made in terms of the concept of "sufficient consensus" will need to be reviewed. It is this desire to

rid the negotiations process of this unacceptable concept which has seen us institute legal action with the Supreme Court in order to have its legality assessed.

While I have dealt in some length on the process which has led to our present two draft constitutions, I feel that it is justified. As anyone would tell you an outcome will always reflect the process that has gone before it. Thus as a consequence of the secret deals, the connivance, the use of 'sufficient consensus' to get around our objections, we have on the negotiating table two draft interim constitutions which in no way reflect the wish for federalism by

the majority of South Africans. Although the ANC and the Government argue that there are 27 constitutional principles which concern the powers to be wielded by the regions, these are far fewer than those already granted to self-governing territories under the present centralised unitary system. To add insult to injury, the principles that do concern the powers of regions are either vague or biased towards the centre.

Of critical concern to the IFP is our right to levy and collect our own taxation revenue. Under the present system the National Party Government has collected 17.4% of the total South African taxes from the Natal/KwaZulu region

and yet disbursed only 14.7% of it into our impoverished region. Worse still, central government has underfunded our region in the vital areas of health, roads and education to the tune of R1.2 billion. Mindful of this injustice, we insist that we have the right to levy taxes over ourselves. Under the present draft interim constitution our region's powers of taxation are severely curtailed.

In line with our desire for a federal democracy we also argue that the ANC and the Government drop their insistence that a Constituent Assembly will have the final say on the writing of our final constitution. By allowing the Constituent Assembly to write our final constitution we will in effect allow it to amend or

even scrap the final interim constitution. It is therefore our position that negotiations proceed from a reconsideration of the issue of the form of state and of the process of transformation, so as to ensure the establishment of a federation of states under a final constitution prior to elections. It is our view that if we are to secure a federal system of government for our country then we will need a speedy agreement on a one-phased process which results in a final constitution which acknowledges the right of self determination of our diverse regions, and the right of those regions to draw up their own constitutions.

It is our view that if we are to secure a genuine federation for our country then the bottoms-up approach of allowing different regions to write their own constitutions and then have them fed into a central constitution, be recognised. Genuine federations, we believe, are based on agreements concluded by the representatives of the centre and the regions. Such a constitution can only come into place when there is agreement between the regions and the centre to establish a common federal level of government which shall enjoy only those powers delegated to it from below.

What the ANC and Government negotiators fail to realise when they tell the public that we already have federalism, all but in name, is that the crucial mark of whether there is federalism or not, lies not in the extent of the powers conceded to the regions but in where the source of the region's powers originate from. You can concede to the regions as much power as you like but so long as the powers derive from the centre, then you do not have federalism. We want the ANC and the Government to concede this. We want them to recognise our right to have the Constitution for the State of KwaZulu/Natal imputed into a central constitution.

We in the IFP believe that there can be no reason to reject our request that this region have its constitution. They certainly need not fear that the constitution the Kwazulu Legislative Assembly has adopted will go against South African's desire for democracy and justice. The Constitution for the State of KwaZulu/Natal is a constitution which incorporates the need for political and economic pluralism. For us political pluralism embodies multi-party democracy and the respect for civil society. Economic pluralism is taken to include a free market economy where private enterprise and property is protected and, in order to deregulate our economy, an extensive programme of privatisation is

embarked upon. In order to ensure that this constitution is not imposed on the people, we are prepared to hold a referendum to test the wish of the people.

The IFP's participation in future talks is further dependent on whether the ANC and the Government are prepared to accept the requirement of federalism, that powers of states or regions must derive immediately from the constitution and that their legislatures must be able to implement those powers through their own legislation. It is our firm view that the list of powers vested in the hands of the regions must be such that real political power can be wielded at the regional level. This must include residual powers and all the powers which are highly

politically charged. Only those powers which can not be adequately and properly performed at state level should be devolved to the Federal Government.

Of critical importance to us is that powers must be autonomous. What this means is that they can not be subjected to the over-riding or concurrent powers of the central government. It is our view that our regions will not be able to exercise any true political autonomy if the constitution allows the central government to over-ride any decision of the regions. If we are to maintain the autonomy of the regions this arrangement will need to be entrenched and

written assurances be given that any future constitutional development cannot remove any powers of the regions.

If our constitution is to succeed in providing a framework in which justice is possible then constitutional legality and the justiciability of the constitution must be guaranteed by a fully independent, fully jurisdictional and easily accessible Constitutional Court. This will prevent any ruling party from interpreting constitutional principles as it sees fit, which is the risk we would run if we allowed a Constituent Assembly to write up our final constitution.

Totally unacceptable to us is the deadlock breaking mechanism which is built into the draft constitution. According to this mechanism South Africa's new constitution will ultimately be adopted by a 51 per cent majority of the Constituent Assembly. This mechanism renders totally useless the guaranteed built-in requirement of a 60 per cent majority which is needed at a referendum to pass the constitution. By including this mechanism in our constitution all we will have is a mechanism which allows the government of the day to generate deadlocks in order to relieve itself of the restraints of constitutional principles and the limitations on the power of the central government.

While it is crucial that we agree on a constitution which delivers true democracy to our country it is equally important that we underpin democracy with economic growth. For this the IFP believes that we must ensure economic freedom. In a political democracy it is accepted that the minority submit to the will of the majority. Because the majority could abuse their power it is vital that our constitution be complemented by a Bill of Rights. It is through a Bill of Rights that the freedom of speech, association, religion and other rights cannot be constricted by popular vote. But if we are to secure for ourselves a prosperous future then in addition to the safeguarding of individual rights, economic rights will also need to be protected. These rights include the

freedom of contract and the right to own, use and exchange private property. In accordance with these economic rights each individual is free to make economic decisions based on his perceptions of his own interests and on the desire to maximise his own welfare.

The minute the state attempts to interfere with economic freedom then we are heading for disaster. Yet it is precisely under the guise of 'economic democracy' that the ANC and its allies are attempting to impinge upon the sphere of private economic action. Under the influence of COSATU and their Communist Party allies they have consistently proposed and attempted to

'democratise' investment and employment decisions. They have continually interfered in the rights of companies, sanctimoniously saying that they are looking after the right of employees to be consulted in decision-making. In so doing they have removed more and more economic decisions from the realm of private choice. Dare any firm or individual resist their actions they are labelled as supporting apartheid and resisting democracy. They are then targeted for strikes and consumer boycotts.

This is the tyranny that has become the norm in South Africa. It is this flagrant contempt for the rights of the individual that bodes ill for our ability to create

economic growth and become a prosperous nation. Like so many other African countries, it is this fixation with the right of the state to interfere in private decision-making which will condemn us to further poverty.

If we are to create economic growth to a level sufficient for our growing population, then the new government will need to make it advantageous for both foreign and domestic firms to invest in our country. This demands creating an environment propitious for investment by lowering taxation levels, reducing the inflation rate and lifting exchange controls. On a fundamental level this is best done by providing an institutional framework which enforces

the rules of voluntary exchange. If we are to create wealth then we will need to encourage individuals to utilise their entrepreneurial capabilities. Effecting this demands economic freedom. It demands the lifting of restrictions on the rights of the individual.

Instituting wealth taxes and reconstruction levies, as the ANC intends to do, will drive us into further poverty. Unfortunately for our country, the ANC thinks that it can make noises about the nationalisation, reconstruction levies and the redistribution of wealth without this destroying the confidence of entrepreneurs and frightening away investors. The sooner they realise that it is

only stringent exchange controls which keeps money in this country the sooner they will stop making these destructive statements. Even though money is tied up in this country, this does not mean that it will be invested - witness the low levels of gross private investment. But then again the ANC might then impinge upon individuals economic freedom by coercing individuals to investment their money, some way or the other.

Today South Africa's people are divided with many communities that are at war with each other. If this were not bad enough our economy is in the grip of a protracted recession, with more than half of our population without any

formal income, half of our population are illiterate and the same number without housing. We desperately need economic growth and development. For this we need a speedy resolution to our constitutional dilemma. We in the IFP believe that the only way we will secure long lasting peace and reconciliation is for us to agree on a federal system of government for our country which acknowledges the right of self-determination of our heterogeneous population. To achieve a true federal democracy will be no easy task. For this negotiations will need to be conducted in a more constructive and multi-party fashion and will need to come to terms with the issues at hand. It is hoped by the IFP that Denmark and other countries who have had a steadfast commitment to the

abolition of apartheid, will back us in our efforts so that our current fight will lead us to the freedom that we have fought so long and hard for.

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