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EMBASSY OF SOUTH AFRICA
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July 6, 1992

Mr Tebogo Mafole

African National Congress

Representative to the United Nations

801 Second Avenue

New York, NY 10017

Dear Mr Mafole

As you are aware the negotiations for a new South Africa are currently stalled. This situation came about when the African National Congress (ANC) announced that it had suspended its participation in the negotiations. The South African Government has repeatedly stated its belief that the negotiations present the only viable option to the solution to South Africa's problems. Any change of Government must come about in a negotiated constitutional manner and not by coercion.

On July 2, 1992 President de Klerk addressed the South African nation on radio and television. During his address the President recommitted the Government to the establishment of a fully democratic and non-racial South Africa.

Enclosed for your information is a copy of the text of President de Klerk's address to the nation, as well as a copy of the Government's reply to the ANC's recently published list of grievances. Both of these documents are very important milestones in the move towards democracy in South Africa.

Your continued support for the peaceful and negotiated transition towards a full and non-racial democracy in South Africa is appreciated.

With best wishes,

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H H Schwarz

AMBASSADOR

TELEVISION AND RADIO MESSAGE

BY THE STATE PRESIDENT.

MR FW DE KLERK:

2 JULY 1992

I am speaking to you tonight with regard to the serious situation which has been artificially created in our country.

As you know, when I became State President, I promised to put South Africa on a new road. I promised that I would end apartheid and that I would free political prisoners, including Mr Mandela. I said that I would start negotiations with all of the main political leaders of our country so that, together, we could draw up a new constitution which would bring full political rights to all South Africans. I undertook to restore South Africa's relations with Africa and with the international community.

I have done all of these things. During the past two and a half years 'we have made very encouraging progress'. At Codesa 2, we were very close to reaching an agreement which would have led to the first election in which all South Africans would have voted. Within months we could have had an elected Parliament; and a government which, for the first time in history, would have represented all South Africans. The transitional constitution would have ensured the rights of all individuals and would have prevented domination and the abuse of power.

There were differences between the parties at Codesa 2 on some constitutional principles and aspects of the constitution-making process. These were important issues, but they could have been solved through negotiations - just as many other problems and differences had already been solved.

However, the ANC and its allies chose instead to sabotage negotiations and to precipitate a crisis. There are strong indications that some elements of the Alliance had planned this course of action even before the start of Codesa 2.

They are now also trying to justify their decision because of the violence in the country. The most recent and terrible example of this violence was the massacre of 39 people in Boipatong on 17 June 1992.

I can assure you that I and the Government are as horrified as

anyone else by the violence. On Saturday, 20 June 1992 I tried to visit Boipatong myself so that I could speak to the families of the victims and share their sorrow. But I was prevented from doing this - not spontaneously by the people of Boipatong _ but by politically organised protests.

Since then the ANC and its allies have repeatedly attacked and slandered the Government. They have claimed that the Government and I were involved in the Boipatong massacre. This is a lie and will remain a lie, no matter how often it is repeated. There is not a shred of proof to support these accusations. We are determined to find out who was responsible for the killings and we will leave no stone unturned until we have prosecuted and punished the guilty. We have also asked the Goldstone Commission to investigate the Boipatong massacre and we have suggested that international experts help with the investigation;

We have taken numerous concrete steps to stop the violence. We have given the police more money and more men. We have supported the National Peace Conunittee and we have set up the Goldstone Commission. - However, regardless of- .the number of police we appoint and the number of investigations we start, we cannot stop the present type of violence alone. We need the support of all political leaders and of all South Africans to do this.

The ANC's reasons for withdrawing from negotiations are completely unconvincing. They know that we are prepared to -discuss any reasonable concerns with them and all other parties. Any differences which may exist make negotiations more necessary - and not less necessary. That is why we have urged them to return to the negotiating table.

There is however every reason to believe that the ANC is simply fabricating excuses to break off the negotiations and to cause an artificial crisis. This is because it, and particularly its allies in Cosatu and the SACP, have decided to follow their own agenda towards the seizure" of power. Instead _of bringing about the 'New South Africa'l through talks and agreement, they want to force their views on the rest of our society through confrontation and mass mobilization. This will not be tolerated.

I want to make a few points very clear in this regard:

- The Government does not seek confrontation and has repeatedly stated its belief that negotiations present the only viable option for the solution of our problems.
- The Government will not hesitate to take all steps necessary to prevent the country from sliding into anarchy.
- Any change of Government must come about in a negotiated constitutional manner. i
- The ultimate goal of the ANC's mass mobilization campaign:

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to overthrow the Government by coercion, will. not be
countenanced.

I appeal to all South Africans, wherever you may be, whatever
community or party you may belong to, to be calm and responsible.
I wish to assure all South Africans that we will not allow our
country to become ungovernable. We will not succumb to
insurrectionist and undemocratic pressure. i

Now is the time for cool heads and wise counsel. Say "NO" to
those who try to incite hatred and anger. Say INOI to any act or
deed which will endanger your job or your security. Do not allow
yourselves to be led along the path of confrontation and
conflict. Support all reasonable acts the Government may take to
ensure stability and security.

If conflict breaks out in our country there will be no winners:

- Conflict will lead to the loss of many more of our loved
ones.

- It will seriously damage our economy and will cause more
poverty.

- It will seriously disrupt education, medical and social
services and the daily lives of millions of South Africans.

- It will make future negotiations much more difficult and
will delay the search for negotiated solutions.

Conflict is completely unnecessary - because we can achieve all
our reasonable objectives through peaceful negotiations. For all
of these reasons you should urge all leaders to return to the
path of genuine negotiations.

Our country is at a crossroads in its history. One road leads
via negotiations to peace, elections and a new Parliament and
Government which will represent all South Africans. It leads to
a "New South Africa" where all South Africans will live together
in peace, prosperity and mutual respect. The other road leads
through mass mobilization to confrontation, poverty and conflict.
The Government has decided two and a half years ago which road it
would follow. It remains irrevocably committed to a peaceful and
negotiated solution and will do anything which may be necessary
to ensure such an outcome.

I invite you to join us on this road.

ISSUED BY THE STATE PRESIDENT'S OFFICE

PRETORIA

2 JULY 1992

LETTER FROM THE STATE PRESIDENT MR FW DE KLERK
TO ANC PRESIDENT HR NELSON MANDELA

Die Staatspresident
The State President
Pretoria

2 July 1992

To : Mr Nelson Mandela
President of the African National Congress

Dear Mr Mandela

I acknowledge receipt of your memorandum dated 26 June 1992 .

However, an exchange of memoranda is no .substitute..for
face-to-face talks. I was therefore disappointed that you did
not accept my invitation to immediate discussions. Every day
that is lost will make the resumption of 'the process more
difficult and may lead to the loss of further lives.

Annexures A-F contain observations relevant to issues raised in
your memorandum and elaborations on issues dealt with. in this
letter. There are however a number of fundamental issues which
need to be addressed urgently at a meeting between us.

1. VIOLENCE

Contrary to the ANC's accusations, the Government has not, and
will not plan, conduct, orchestrate or sponsor violence in any
form whatsoever against any political organisation or community.
The lie that the Government is sponsoring and promoting violence
remains a lie no matter how often it is repeated. Where elements
in state structures err in this regard, the Government will not
hesitate to take appropriate measures. There are prosecutions

ANC's rhetoric has been radicalised and is now virtually indistinguishable from that of the SACP, and so are the ultimatum and polarisation politics now being conducted. In recent days this rhetoric has degenerated into incitement to violence and hatred at grass-roots level.

The current mobilisation action can unleash forces which, the instigators will not be able to control. This will, in turn, make extended Government action unavoidable. The programme of mass mobilisation, in the prevailing circumstances, will inevitably:

- lead to further violence;
- delay the search for democratic solutions;
- damage the economy, on which all South Africans depend; and
- seriously disrupt social services to the detriment of those in need of medical care, protection, support and education.

The Government does not seek confrontation and has repeatedly stated its belief that negotiations present the only viable option for the solution of our problems. However, it will not hesitate to take all steps necessary to prevent the country from sliding into anarchy. Any change of government must come about in a negotiated constitutional manner. The stated ultimate goal of the ANC's mass mobilisation campaign is 'the overthrow of the Government by coercion. This will not be countenanced.

3. THE ANC'S ABORTING OF THE NEGOTIATION PROCESS

You say that you have withdrawn from the negotiating process because of the Government's involvement in violence and its lack of commitment to genuine democracy in the negotiating process. Your allegations about Government involvement in violence have already been dealt with.

With regard to your allegations concerning the Government's commitment to genuine democracy; I should like to refer you to the substantial agreements already reached in the Working Groups of Codesa. The fundamental difference between the approach of the ANC and that of the Government regarding the purpose of negotiations lies, on the one hand, in our commitment to constitutionality and a transitional government as soon as possible; and on the other hand, in the ANC's insistence on an unstructured and immediate transfer of power before a proper Transitional Constitution is negotiated.

Even, after Codesa 2, our approach to transitional arrangements was again explained to ANC representatives. Our proposals are in line with universally accepted democratic principles. A summary of our approach can be found in Annexure '1', and in Annexure "B" allegations that the Government is clinging to, are

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conclusively refuted.

Once again, the remaining differences between the ANC, the Government and the other political parties on key constitutional questions make multi-party negotiations more - and not less imperative.

4 . ANC "DEMANDS "

In our view what you are presenting as demands are issues that are being tailored by the ANC to support its programme of mass mobilisation and to justify the abortion of the negotiation process. All these issues could have been suitably discussed at the negotiation table and it is imperative that such discussions do take place to remove any misconceptions and misunderstanding. It should be recorded that some of these have already been dealt with by way of agreements, or have been dealt with by governmental measures. Annexure '3" contains observations in this respect.

However we would like to comment in particular on the hostels and dangerous weapons.

The problems relating to the hostels have been the focus of much concern and attention, but, as you are aware, it is an extremely complex situation and although extensive deliberations and consultations have already taken place, much work remains to be done. This is therefore an issue that we would like to be given particular attention at our proposed meeting.

'As regards dangerous weapons, weaponry and explosives measures have been taken and adopted regarding the carrying and possession thereof. These measures will be strictly enforced. Further regulations about the possession and carrying of dangerous weapons are currently under consideration. _.

The carrying and possession of dangerous weapons should receive attention when we meet, but particular attention must be given to the implementation of measures relating to the illegal possession of firearms and explosives, and the introduction of such weapons into the country. The AK47 has become the symbol of political and criminal violence and firearms are the weapons mainly used to kill political opponents and to perpetrate criminal violence. Ways and means must be found to ensure that this problem is resolved and we must discuss this issue when the leaders of the Government, the ANC and the IFP meet. Until now this -question- has been dealt with bilaterally, but it has become such an integral part of the problem of violence that it can no longer remain solely on a bilateral agenda.

I reiterate the Government's commitment to peaceful negotiations as the only way to bring us to a new democratic constitution as

soon as possible. I repeat my proposal that we should meet
urgently for fundamental discussions , espec ial ly on the
abovementioned four issues.

Yours sincerely

SIGNED

FW DE KLERK

ANNEXURE A

THE CURRENT INFLUENCE OF MARXISM-LENINISM WITHIN THE ANC

Despite initiatives to become more independent, the SACP still have a Close relationship with the ANC, which not only enables its members to constantly influence ANC strategy, but creates a climate conducive to radical and militant thinking during a phase in which negotiation and reconciliation should be a priority. In fact, the SACP lends so much support to initiatives to influence and even transform the ANC, that it seems that its independent profile serves only to draw attention away from its primary revolutionary strategising role within the ANC.

It is clear that the SACP, COSATU and individuals within the ANC still pursue outdated . tactical communist doctrines and objectives. The question arises whether the ANC is not becoming a captive of these forces. The SACP furthermore still regards a socialist system as only a necessary phase towards realising an eventual communist system. It should be obvious that these objectives and the prominent position of their proponents within the ANC cast doubt on the real character of the ANC.

There can, be no doubt that both the SACP and COSATU were, in their individual and collective capacity, instrumental in a number' of recent crucial ANC decisions regarding _ the negotiation process. These decisions followed intense deliberations between the SACP. and .COSATU members and were clearly the result of specific guidelines drawn up 'by- the SACP/COSATU . The following examples are relevant in this regard: -

- The ANC'S' decision to implement a programme of mass action in order to force 'the Government to meet certain bottom lines and/or to transfer power to the ANC.
- The ANC'S attempts to deadlock Codesa.
- The ANC's decision to suspend negotiations notwithstanding opposition within both the NBC and the so-called Codesa PF. '

As South Africa moves towards a new democratic order, the strategy and policy of various revolutionaries within the ANC Alliance are .increasingly in conflict With internationally accepted norms. :For example, to regard negotiation in principle as 'terrain of stmuggle' undermines the essence of the. concept itself. In the final instance it

gives rise to concern that the ANC allows these influences to flourish when these forces are already committed to extra-parliamentary struggle against the new dispensation that the ANC is propagating. This extraordinary approach underlines the fact that revolutionary ethics generally overrule all other principles, and are therefore incompatible with democracy. .

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ANNEXURE B

PERCEPTIONS REGARDING THE NEGOTIATION PROCESS

When the process of negotiation was initiated by the Government, it was clearly stated that its aim was to extend democracy to the whole of the South African nation. It was also made clear that a fundamental and sincere policy decision had been taken by the governing National Party, fully endorsed by its supporters and many others, to remove racial discrimination, to abolish apartheid and to be instrumental in the establishment of a constitutional state in the new South Africa in which all citizens would be equal and justice would reign supreme.

This approach will require a restructuring of government and society on an immense scale. Hardly any sphere of life, any element of administration or any aspect of politics has been or will be left untouched by the process of constitutional change. It would therefore be irresponsible to advocate less than an orderly, albeit urgent, process of transition from present structures, administrations, politics and processes to those of a responsibly negotiated new dispensation. That is why, as a first priority, the Codesa negotiation process focused on transitional arrangements whereby those not now represented in government could become involved.

The ANC, on the other hand, has been advocating a sudden plunge, virtually without preparation, into a simple majoritarianism. The Government responsibly insists upon the replacement of the present dispensation with a fully functional and comprehensive Transitional Constitution providing for proper curbs on the misuse of power during the sensitive period of transition to an eventual constitution. It appears that the ANC wants to avoid proper checks and balances on a 'Constituent Assembly', which, according to a fair construction of the ANC's views, will function in a constitutional void after the destruction of the present dispensation. To accede to such a demand founded on revolutionary thinking would be irresponsible on the part of the Government. The unreasonableness of the ANC in this regard is the real obstacle to progress in constitutional negotiations. Further negotiation on the details of a transitional dispensation with the purpose of extending democracy to all South Africans and to bring social and economic stability to the nation, must be the priority of negotiating parties having the well-being of all South Africans at heart.

Given the initiatives that the Government has taken over the past years and the structures created, financed and managed for the purposes of sober negotiation and the restoration of social peace, it is invidious and entirely unconvincing to accuse us of attempting to cling to power in an undemocratic manner. After all, we express our proposals for a transitional dispensation in terms of power shaajing and fully accept that such political parties as may be capable of demonstrating substantial support in a democratic election, must not merely be present in the decision-making process, but must also have meaningful influence under a transitional constitution.

The progress that was made in the various Working Groups of Codesa is indeed impressive even in summary. Key elements of agreements which were endorsed by the ANC negotiators as well, include the following:

- "A climate for free political participation is an essential element of the transitional phase towards and in a democratic South Africa. (Working Group 1 Report, par 6.1.2.1)
- Political intimidation must be terminated. This means "any action or set of actions committed by any. . . . organisation . . . that is designed by the use or the threat of use of force or violence to disrupt or interfere with the legal rights of an individual, inter alia . . . the right of freedom of movement. " (Working Group 1 Report, par 7 .2)
- . A reaffirmation of the National Peace Accord. (Working Group 1 Report, par 10) -
- "Political parties and organisations should have fair access to public facilities and venues without discrimination'. (Working Group 1 Report, par 14)
- Codesa should draw up a transitional constitution (Working Group 2 Steering Committee Proposal of 13 May 1992)
- The Transitional Constitution should provide. for a bicameral Parliament elected by universal adult suffrage; proportional representation being the basis for the election of one Chamber; a multi-party executive; the separation. of the legislative, executive and judicial powers; a justiciable Charter of Fundamental Rights and the establishment of the boundaries, powers, duties and functions of a regional government structure and its entrenchment in the Transitional Constitution. (Working Group 2 Steering Committee Proposal of 13 May 1992)

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- The establishment and detailed structuring of a Transitional Executive Structure for the purposes of preparing the ground for the institution of a transitional dispensation was fully agreed upon by Working Group 3.

- The principle of and some details concerning the re-incorporation of the TBVC states was agreed upon by Working Group 4.

The Government at all times made it clear that it was willing and eager to support and promote progress in the negotiation process, whereas the ANC has lately derailed Codesa 2, reintroduced "mass action" to a tense and suffering society as a form of "struggle", and is now making demands in a threatening manner apparently in' order to coerce the Government into irresponsible concessions that could not be negotiated with the parties in Codesa.

An honest analysis of the events leading to the present impasse makes it clear that the ANC is responsible for obstructing the negotiating process, which' was progressing extremely well until shortly before Codesa -2. It would appear that the ANC found shortly before Codesa 2, that such progress did not serve its political purposes, and therefore insisted upon driving Working Group 2 to 'a point where agreement to its proposals or none at all in the whole of Codesa - was demanded. The ANC's perception, it would seem, was that its purpose of an unqualified take-over of: power would not be served by the reasonable agreements in Codesa that were ready to be sealed.

The Government firmly. believes in democracy. We maintain that democracy entails universal adult suffrage and majority decision-making procedures. However, to suggest as the ANC does, that simple majority decision-making is the sole essential feature of modern democracy, is over-extending the notion. A far more fundamental feature of modern democratic states is the extent to which all citizens enjoy meaningful participation. and fair- representation in government institutions.

It is 3not democratic to attempt to deny meaningful political segments of society access to assemblies tasked with the determination of their future. Furthermore the Government does not accept the ANC's reduction of. South African politics to battle between Black and White. This reduction ironically exposes the ANC's approach to be founded upon outdated .racial considerations.

The perception that the road to democracy is simple, is a dangerous one. The approach that mere majoritarianism is sufficient will not bring peace to our land. It' is the Government , opinion, that participation and representation,

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and not, majority' domination, however' structured, are the building blocks of a democratic future. In a country whose human wealth lies precisely in the diversity of its population, the exclusion of significant minority political parties from decision-making regarding a: matter as fundamental as the terms of a future constitution would be courting disaster.

Modern democracy goes beyond the mere identification of the majority: it is equally concerned with the protection of minorities against possible excesses of the majority. Universally acknowledged constitutional mechanisms like bicameralism, regional autonomy (federalism), effective proportional participation in government by all significant parties and enforceable and justiciable fundamental rights entrenched in the constitution, serve precisely the purpose of curbing majority domination. It is significant that the Government has been advocating these and the other elements of the constitutional state, while the ANC was prepared to derail Codesa 2 on the grounds of rejecting such mechanisms of modern democracy which had virtually been agreed upon for the transitional dispensation.

A healthy and responsible administration constructed on the basis of the effective representation of all meaningful political parties and providing for their participation in the process of government is surely in the national interest. On the other hand, a constitution in which politically meaningful elements of society had no say, would in all probability lead to political instability of no mean proportion. The ANC seems to be bent on such a disastrous outcome.

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ANNEXURE C

THE ANC AS A NEGOTIATING PARTNER

1. The Government believes that a sound foundation for at least a mutually acceptable process was laid at the Groote Schuur and subsequent bilateral agreements which, besides reflecting a clearly identifiable spirit, also contained the following:

- "The Government and the ANC agree on a common commitment towards the resolution of the existing climate of violence and intimidation from whatever quarter as well as a commitment to stability and to a peaceful process of negotiations" (Groote Schuur Minute).
- "Both parties committed themselves to take steps and measures to normalise and stabilise the situation, within the spirit of mutual confidence that exist between the leaders . . . " (Pretoria Minute) .
- "The right of the broad population to make their views known through peaceful demonstrationst.
- It was further agreed that violence and intimidation, from whatever quarter, that form part of mass action, should be eliminated.

1 Further agreed that peaceful political activities and stability should be promoted (DF Malan Accord) . Despite these agreements and the spirit in which they were concluded, the am: at regular intervals started using threats and ultimatums as part of its political approach, which from the start had a detrimental and erosive effect on the mutual trust that was beginning to develop. The MIC do have a bad track record in maintaining agreements and can be considered an unreliable negotiating partner.

2. Therefore the decision of the ANC NBC 'on 24 June 1992, in collaboration with its Alliance partners, to suspend negotiations, is viewed as only the most recent of a range of similar past decisions which further contributed to the creation of negative perceptions regarding the ANC' s approach to negotiations per se .and as a process. The perceptidn that has been created includes indications that:

- The ANC is committed to negotiations only to the extent that its own objectives are' served:

- The ANC readily enters into agreements but is not committed to supporting the practical implementation of such agreements.

- The ANC is using extremely coercive negotiation tactics, including ultimatums, deadlocks, threats, reneging on agreements, and projecting unrealistic time-frames, etc, almost every time it becomes apparent that genuine compromise on a give-and-take basis is in the offing.

The South African Government remains responsible for the maintenance of law and order in South Africa. It is however a truism, conveniently disregarded in the ANC's Statements, that to disrupt law and order is simple, but to restore and maintain it with finite resources, is always problematic. Therefore the Government is concerned about the high level of violence in certain parts of our country. The Government regards existing bilateral (Groote Schuur Minute, Pretoria Minute, DP Malan Accord) and multi-lateral (National Peace Accord, Declaration of Intent) agreements as important instruments in preventing and curbing the violence and finding permanent solutions to the problems facing South Africa. The Government endorses the contents of these agreements. Nothing will however be achieved without mutual trust existing between the parties. The ANC and its allies have violated these agreements, the following being examples :

Paragraph 2.4 of the National Peace Accord states as follows:

"All political parties and organisations shall respect and give effect to the obligation to refrain from incitement to violence or 'hatred, including that directed against any political party or personality, nor any wilfully false allegation, shall be used at any political meeting, nor shall pamphlets, posters or other written material containing such language. be prepared or circulated, either in the name of any party, 'or anonymously. "

In contravention of this agreement numerous inflammatory statements have been made by many ANC leaders, especially in the recent past. Languages likely to incite violence and hatred is constantly use. False allegations are made and pamphlets and posters contravening these agreements abound. For the period November 1992 to June 1992, the ANC was responsible for 196 recorded breaches of the National Peace Accord and the DP Halan Accord;

The ANC, by starting planning for mass action even before it became clear that a deadlock might develop at Codesa,

reneging on all Working Group agreements on the basis that there was no agreement if all agreements were not accepted as well as suspending negotiations, cannot but further compound the already negative perceptions surrounding the organisation's approach to negotiations. From these and other decisions and actions by the ANC, in conjunction with its Alliance partners, it can only be deduced that the ANC is indeed negatively viewing negotiations as an "area of struggle", and even as a battle in the "struggle" that must be won at all costs. If this is indeed the case, then it is clear that the ANC's Current view of negotiations there is no room for compromise, much less for mutually acceptable agreement.

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ANNEXURE D

VIEWS ON THE CURRENT VIOLENCE

The South African Government remains responsible for the maintenance of law and order in South Africa. It does, and has been, doing, everything possible: within its power and within the existing political climate to address this scourge that has descended on our country.

The Government is however not the only role player in this regard. It is the responsibility of every individual, organisation, party and leader (whether political or otherwise) to strive for stability.

The appalling events at Boipatong on 17 June 1992 .have once again shown that the situation in South Africa is highly volatile and accompanied by a vicious spiral of violence and counter-violence . .

The Government wishes to state categorically that, contrary to ANC claims, the Government does not plan, conduct, orchestrate or sponsor violence in any ,form whatsoever, against any political organisation or community.

The time has come for the ANC in particular, but also for other political groups, to recognise the fact that policies aimed_ at gaining a monopoly on power in themselves. promote violence. - . -

The Second Interim Report of the Goldstone Commission of Inquiry quite correctly stated that the causes of violence are numerous and complex. However, the ANC has to 'date not acknowledged its involvement in violence, and as far as the Government is aware has consequently taken little constructive action to curb violence. As a matter of fact, the ANC is guilty of selective quoting from the above report. It never refers to criticism of the- ANC .by the Commission but uses the Commission to put the blame for violence on other parties. The Government takes .a serious view of the criticism in the Goldstone Commission report, but expects the we to do the same.

The question may also be asked: to what extent does the ANC' s non-compliance with the various Accords, in particular the National Peace Accord, contribute to themeb of violence in which South Africa is entangled? On the other hand the Government regards the existing bilateral and multi-lateral agreements, especially the National Peace Accord and the Codesa Declaration of Intent, as important instruments for curbing violence and finding permanent solutions; 'to the

problems facing South Africa and its people.

8. The ANC's direct and indirect involvement in the creation of a climate conducive to violence gives rise to the question whether the ANC was ever fully committed to the National Peace Accord, in particular to paragraph 2.4, which reads as follows:

"All political parties and organisations shall respect and give effect to the obligation to refrain from incitement to violence or hatred. In pursuit hereof no language calculated or likely to incite violence or hatred, including that directed against any political party or personality, nor any wilfully false allegation shall be used at any political meeting, nor shall pamphlets, posters or other written, material, containing such language be prepared or circulated, either in the name of any party, or anonymously."

In this regard the following statements by prominent ANC leaders are highly revealing:

-- . Mr Harry Gwala admitted that the ANC is fighting a war and that the ANC is killing IFP "warlords and their associates (Natal Witness, -29 April 1992) . -

- On 26 April 1992 Mr George Mathusa (Chairman of the ANC in the Western Transvaal) vowed that Bophuthatswana would be made ungovernable through necklace killings and bombs. Addressing people at a funeral service Mr 'Mathusa said: 'In South Africa we did it through our necklaces and bombs, we can easily repeat it here. " (Cape Times, 27 April 1992). - '

- In The Citizen of 23 May 1992 it is reported that Mr Nelson Mandela said in Helsinki that President De Klerk was involved in the violence in which almost 1 000 people in South Africa have been killed this year. Mr Mandela told a news conference that it was a serious , responsibility to accuse a Head of State of fuelling the violence and the killing of innocent people, but that facts indicated that President De Klerk was involved in this.

- In The Citizen of 25 May 1992, it was stated that Mr Mandela, in Geneva, likened the violence in South Africa to the killing of Jews in Nazi Germany.

- On 16 June 1992 at the Dan Qeque Stadium, Zwlde , Port Elizabeth, 111: Harry Gwala stated inter alia:

"'If the only way to our freedom is through bloodletting, so let it be and if we all perish let that happen.' He said those who believed the time for

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armed struggle was over were seriously mistaken, . , , (EP Herald, 17 June 1992).

The Government recognises that the ANC's suspension of armed action on 6 August was taken in the interest of a peaceful transition in South Africa. Unfortunately, this has had no marked effect on violence. Since the suspension of armed action, numerous cases of MR involvement in establishing self-defence units and renegade self-defence units, as well as armed crimes by MK members, have occurred. Numerous ANC arms caches - in violation of the provisions of the DF Malan Accord - still exist. For example 13 MK arms caches have been uncovered since 2 February 1990. Considering the well documented lack of discipline that MK members have demonstrated, both locally and in foreign countries in the past, the Government must inevitably ask whether the ANC still has any control over arms caches and how many of the murder weapons presently being- traded to the highest bidder, originate from ANC caches.

The Government finds it contradictory that the ANC' 8 answer to violence is the formation of so-called self-defence units, which eventually become uncontrollable, as in the case of Phola Park. It is well known that these -self-defence units are themselves major contributors to violence .

Another ,urgent matter is the question of how many incidents of violence can be ascribed to ANC members masquerading as members of the- Security Forces . Taking the two recent incidents in this regard into account, the question also arises whether actions such as these are official ANC policy or reflect a lack of control over ANC members.

The ANC owes the people of South Africa an explanation for the extreme forms of violence perpetrated against its own dissenting members in detention camps. Since South Africans were involved and since Codesa (Working Group 1) has interested itself in this issue, all investigations and findings, notably the ANC's own commission's report, should be tabled - preferably at Codesa.

The ANC's history of violence, and its murder. of innocent civilian men, women and children, its barbaric extrajudicial fnecklace" executions, the torture and murder in its detention camps and its total disregard for .the consequences of mass action, remove whatever moral base it may have had to point fingers at others concerning the violence. Most of the perpetrators of the atrocities mentioned are still at large and the dossiers at still open.

It is clear, in order to escape their own involvement in violence, that the ANC blames other political parties, the .Government and the Security Forces for the violence. What

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is particularly reprehensible is to blame the State President - the very man who started the negotiation and National Peace Accord processes.

There is a clear strategy of discrediting the Security Forces. This statement is made due to the following facts:

- Complainants in criminal cases are often influenced by the ANC not to co-operate with the SAP.

- Unfounded allegations are presented as facts to create the perception that the SAP, in particular, is biased and takes part in violent action.

In conclusion, the ANC is to account for its direct and indirect involvement in the more than 30 000 incidents of violence since February 1990, and the murder of over 6 000 persons during the same period. Likewise the ANC must also answer the questions to what extent its calls for attacks on Security Force members in the 1980's, and which have never been withdrawn, contributed to the deaths of over 90 members of the SAP in acts of violence since January 1992 alone.

When is the ANC going to transform itself from a liberation movement to a conventional political party, and thereby shed its image as a violent organisation? '

ANNEXURE E

THE DEMANDS OF THE ANC

How the interruption of the negotiation process can be brought to an end, how the demands of the ANC can be dealt with to achieve this end, and how the negotiation process can be structured so as to ensure progress and avoid similar interruptions in future, are matters that should be discussed and deliberated upon at the proposed meeting between the ANC and the Government. What follows are observations about certain aspects of the statement of the ANC on 23 June 1992, and of the Memorandum of 26 June 1992 from Mr Mandela to Mr FW de Klerk.

All the information at our disposal points inevitably to the conclusion that factions within the SACP and the ANC were not happy with what was being negotiated at Codesa and they initiated, before Codesa 2, a strategy to abort the negotiation process by deliberately creating a deadlock and by reverting to the pursuance of their goals by way of what is euphemistically called mass action, but what is in reality physical confrontational action. This is our perception of what has happened and this is the only interpretation that can be placed on "demandst backed up by threats to completely destabilise South Africa if these demands are not met. In our view, mass mobilisation and activation with the war-talk presently being built into these can only be described as reckless given the existing climate of violence. -

A second leg of this strategy is that at the same time the ANC has also been using mass action and confrontational politics to mobilise support when they registered that their support base was dwindling. This has been happening in spite of the ANC's undemocratic and violent isolation of areas they have taken control of, against all other political parties or viewpoints. They simply do not seem able to adjust to a democratic political process where the people are allowed to listen to the points of view of all the other parties and then to make up their own minds whom they would like to support. We have experienced the violent excluding actions of the ANC and have been informed that these were not isolated incidents but firm policy; Many examples of such 'no go' areas for other political parties can be cited.

4. OBSERVATIONS ON ASPECTS OF THE MEMORANDUM

4.1 Par 1.2 to 1.5 (The Government is blamed for the crisis in the negotiation process and accused of minimising the crisis):

The Government is not trying to minimise the seriousness of the situation. We are convinced that the ANC/SACP tried to engineer a crisis. What other interpretation can be placed on the withdrawal of the ANC from Codesa and from bilateral negotiations? That is how a crisis is created, not how it is solved.

4.2

Par 2 (The Government is accused of ignoring democratic principles and of trying to build a white minority veto into the political process and constitutional structures):

The constitutional negotiation process leading up to the ANC-created deadlock is dealt with in another annexure. What follows are examples of inconsistencies in the Memorandum:

2.5 According to figures of the Development Bank of Southern Africa approximately 23 million people will be able to vote in 1993 in an election for a constituent assembly/transitional government. Of those only 4 million (17 %) will be White voters who will probably be voting for different parties. How can a 70 or 75 % majority requirement possibly amount to a White veto?

2.6 Here the deadlock is attributed to the Government's supposed insistence on a minority veto (whatever that may mean), but the ANC itself is proposing a sixty-six percent majority. There is therefore agreement on the principle that as constitution should not be created by a mere majority but should rather have 'overwhelming' support.

2.10 Here the ANC aligns itself behind the principle to that constitution making should be a unifying and

2.13 legitimising process which should enjoy overwhelming support. This the guiding principle underlying the Government's approach to the process. This is why the Government wants as many parties and interests as possible to be part of the constitution-making process. The product of the process, the new constitution, must be accepted and supported by all; it should not be a

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constitution enacted by a majority in a constituent assembly elected on party political issues.

Par 2 (The Government is blamed for all violence and read with the NEC statement accused of pursuing a strategy embracing negotiations together with systematic covert action, including murder, 'involving Security Forces and surrogates)

Nothing in this whole paragraph even attempts to support the bizarre and completely unfounded opening sentence of the ANC Statement. The whole paragraph is blatant propaganda rhetoric containing factual inaccuracies and distortions. Thus it is not true that the majority of deaths have been caused by "cultural weapons". There is also a distorted description of police investigations, while the ANC itself has been intimidating Boipatong residents from talking to the police. The ANC has also not once fulfilled its obligation under the Peace Accord to assist the police in their investigations when ANC members have been involved in atrocities. Compare, this with the numerous instances when the criminal acts by Security Force members were investigated, prosecuted and punished. Apartheid is blamed for the current violence, while the ANC's history of political intolerance and violence and atrocities against mainly Black political opponents over more than a decade is ignored. The difference is that the Government has rid itself and the country of apartheid but the ANC has not been able to adjust to democratic political competition. - ' ._-

Par 3.3 (The Government is blamed for legalising the carrying of dangerous weapons) : - .

In terms of the National Peace - Accord the parties agreed that no weapons or firearms may be possessed, carried or displayed by members of the general public attending any political gathering, procession or meeting. The Government has subsequently honoured its obligation in terms of the National Peace Accord by issuing the relevant proclamations after consultation with political parties, ie. the ANC and IFP. On 28 February a prohibition was issued in terms of Section 2(2) of the Dangerous Weapons Act, 1968, prohibiting any persons attending or participating in a political gathering at any public place to be in possession of any dangerous weapon which clearly includes traditional weapons.

'Other steps taken by the Government are as follows:

- On 19 March 1992 a further prohibition was issued in terms of the Dangerous Weapons Act, 1968, prohibiting a person from being in possession of any dangerous weapon at any property of the South African Rail Commuter Corporation Limited. Objects, including so-called traditional weapons, which are to be regarded as dangerous weapons, are explicitly listed.

- Various prohibitions concerning dangerous weapons were issued under the Unrest Regulations in terms of the Public Safety Act, 1953. Provision was also made for an additional substantial prohibition with regard to spears.

- The Government is presently preparing draft regulations in terms of which the possession and carrying of all dangerous weapons at any public place may be absolutely banned. As the need may arise these regulations will be implemented in areas declared to be unrest areas.

5. THE DEMANDS

In preparation for the discussion of the demands, the following observations are made and need to be dealt with in such discussions:

9 ._. The Government will do whatever it can , without departing from its principles and ideals, to get negotiations, both bilateral and in Codesa, on track again.

- Fourteen issues have been identified:

Re: the issues of a constituent assembly and an interim government of national unity._ In Codesa complete agreement was reached on the broad structure of transitional arrangements, including a transitional executive council, an independent electoral commission and a constitution-making body within the framework of an elected transitional government. The Government has therefore already agreed, in Codesa together with the other parties, to that which is now demanded. What the Government was not prepared to agree to was an appointed, as opposed to an elected, interim government. If there are any misunderstandings .011 these issues, the Government would like to discuss these when we meet.

Re: the issues of covert Operations, special forces, prosecution of Security Force personnel and repression in Self-governing States. These demands are introduced with a general demand that the "regime must immediately end its campaign of terror against the people and the democratic movement. This is a demand that cannot be met simply because there is no such campaign of terror; and the ANC knows this. The Government is however agreeable to discussing once again the specific issues mentioned, but will also want to discuss the ANC's own contribution to political and other violence and to explore ways and means of bringing that to an end.

Re: the issues concerning hostels. The Government is concerned about the hostel situation and has therefore approved a comprehensive hostel strategy. The aim of this strategy is to create humane living conditions for the hostel dwellers by means of upgrading the hostels or converting them into family units. The upgrading/conversion will however be based on consensus reached after negotiation between the hostel dwellers, surrounding town residents, the owners and all other concerned parties such as political groupings, civic organisations, trade unions, employers, etc. A peaceful resolution of the issue is therefore not possible without consensus amongst the parties directly involved at local level. In its memorandum to the Government, the ANC attached a document dealing with the problem of the Kwamadala hostel and in which many allegations were made against a number of individuals and organisations. It is clear that factual disputes will arise. As the Goldstone Commission is currently investigating the Boipatong incident, it is suggested that any findings concerning these allegations be left to the Commission:

Re: the issue of dangerous weapons. The carrying of dangerous weapons has already been dealt with but can be further discussed. The Government would also want to discuss the application of measures to counter the illegal possession of all dangerous weapons, including firearms and explosives, and ways and means of stopping the introduction of such weapons into South Africa and of ensuring that such weapons are not used in the perpetration of political and criminal violence. Contrary to the ANC's allegations, these are mainly the weapons used to kill political opponents and to perpetrate criminal violence.

Re: the issues of international involvement "political prisoners" and "repressive" legislation. Although grouped together by the ANC, these demands concern three separate issues, two of which, namely political prisoners and "repressive" legislation, have already

been the subject of extensive agreements. The two can nevertheless be further discussed and so can the third issue, namely ways and means of arriving at the truth about the Boipatong massacre and other acts of violence; and ways and means of preventing such that occurrences in future together with the role the international community can play in this regard. With regard to these issues the Government would like to elaborate as follows:

INTERNATIONAL INVOLVEMENT

The Goldstone Commission charged with investigating the Boipatong case involved international assistance to assess and evaluate. The Government wishes to reiterate its abhorrence of all the events surrounding the Boipatong incident and trusts that justice will prevail in the shortest possible time. At the same time the Government wishes to express its grave concern over newspaper reports to the effect that witnesses were instructed not to co-operate with the SAP in its investigation.

POLITICAL PRISONERS

The Government has fulfilled its obligations under the various agreements resulting in the release of a very large number of prisoners. What is now disputed is the release of a number of prisoners who have committed 1 common law crimes such as murder and whOm the Government maintains fall outside the ambit of. the agreed definition .on. guideline. for identification of political prisoners. Yet the Government (and the ANC) have agreed at Codesa working Group 1 that a task. group consider the identification of such prisoners, and the definition of 'pOlitical prisoners".' '

Apart from the above, the Government and the ANC have been involved over a long period in bilateral talks on a number of issues identified as far back as the Pretoria Minute, which should and could be finalised in one single agreement with a multilateral effect, including the disputed prisoners; the lack of indemnity for MK and senior officials of the .ANC; the future of_ MK; and the arms caches. Ancillary issues such as the question of treatment of former detainees in ANC camps-abroad and whether such camps-still exist will possibly have to be addressed.

REPRESSIVE LEGISLATION

Working Group 1 had made extensive unanimous recommendations in regard to security and emergency affairs at Codesa 2. The ANC's inexplicable delaying tactics are keeping these issues alive. The Government cannot possibly abrogate its duty to govern and to take steps to reduce the level of violence, intimidation and crime. In this regard reference is made to legislation passed recently in Parliament, pertaining inter alia to illicit trafficking in arms and ammunition, usurping police and military powers, violence and intimidation, drugs and drug related crimes.

In conclusion, withdrawing from negotiations, especially from Codesa, cannot contribute to the resolution of any of these issues. The Government is only one of nineteen parties in Codesa. How can the ANC justify the deliberate wrecking of Codesa by putting demands to the Government? What better forum is there for putting its demands, if this is what it really wants to do , than Codesa itself.

ANNEXURE F

GOVERNMENT PROPOSALS REGARDING A TRANSITIONAL CONSTITUTION FOR SOUTH AFRICA

PRINCIPLES GOVERNING A TRANSITIONAL DISPENSATION

- The Transitional Constitution must be a complete constitution.

The Transitional Constitution must effect the fundamental replacement of the principles of the current Westminster system with those of a Constitutional State.

The diversity of interests existing in the South African community must be accommodated in the Transitional Constitution.

The further restructuring of the second and third tiers of government must be facilitated by the Transitional Constitution . -

The Transitional Constitution must satisfactorily underpin the maintenance of order and stability.

MAIN FEATURES OF A TRANSITIONAL CONSTITUTION

The following are the main elements of the Transitional Constitution proposed by the Government:

A Parliament consisting of a National Assembly and a Senate

An Executive Council directly elected by all the voters

- A Cabinet appointed by the Executive Council

An independent judiciary, with judges being appointed by a non-political body

- A justiciable Charter of Fundamental Rights

- Autonomous regional government

- Autonomous local government

Special provisions regarding the following functionaries and institutions in order to safeguard them against political manipulation: J '

- The South African Defence Force
- The South African Police
- An independent AuditoruGeneral
- An independent Ombudsman
- An independent Commission for Administration
- The entrenchment of constitution-related legislation (such as electoral laws, laws concerning the courts and laws applicable to the Public Service) and of other laws such as those relating to existing pension rights and laws regulating standards for public offices and professions.

REPLACEMENT OF THE TRANSITIONAL CONSTITUTION

- For the amendment or substitution of the Transitional Constitution a majority of 70 % will be required and 75% for the Charter of Fundamental Rights.
- If the Transitional Constitution has not been replaced within three years, a general election will be held in terms of the Transitional Constitution.
- The Transitional Constitution will be amended or replaced only within the framework of general constitutional prinpiptes as agreed upon at CODESA, and the Constitutional Chamber of the Appellate Division must certify this to. be the case.

The following must, inter alia, be enshrined as general constitutional principles: 1 -

- the autonomy of civil society ie.' . the exclusion of interference by the state in the affairs of the civil society, such as sport, culture, professional life, religion, trade unionism and traditions.
- Democratic standards to which political parties must conform.

The Transitional Constitution must itself also be drafted within the framework of the agreed general ' constitutional principles, including the above..

PARLIAMENT

THE NATIONAL ASSEMBLY

The Transitional Constitution will provide for a National Assembly vested, together with a Senate, with legislative powers as well as the power to amend and replace the Transitional Constitution by special majorities.

The National Assembly shall be elected proportionally by universal adult suffrage according to the party list system.

SENATE

- The Transitional Constitution will provide for a Senate. An equal number of members will be elected from each of the electoral regions that will be delimited_ for this purpose, using the development regions as the point of departure. Seats are allocated to a region in proportion to the party support in that region.

L(egislation may be initiated in the Senate and all laws must be approved by both Houses. The Transitional Constitution will provide for mechanisms for the resolution of differences between the Houses as well as for exceptions in regard to specific subjects in respect of which the powers of the Senate may be upgraded or downgraded (eg. financial laws? ilaws relating to education or specific regional matters) .

When the Transitional Constitution is amended or replaced the boundaries of. each region' and its functions, powers and form of government will also have to be approved by a majority of the representatives from eaeah electoral region that will be affected in each case.

REGIONAL GOVERNMENT

There will be regional. governments 'in the transitional dispensation. Agreement must be reached regarding the powers, functions and boundaries. of regions and regional governments prior to the_ coming into operation of the Transitional Constitution. Should. the 'process of the full establishment of the regional dispensation delay the implementation of the Transitional Constitution, the finalisation of the. boundaries and the implementation of aspects of the system of regional government may be left to the Transitional Parliament.

If some of the present regional authorities still exist when the Transitional Constitutional comes into effect, they will continue to exist for the time being; provided that a TBVC state may participate in the transitional dispensation by undergoing a transformation of status beforehand from independent state to self-governing territory.

The autonomy of regions will consist in their powers, functions and boundaries being derived originally from the Transitional Constitution and will not be subject to amendment without the concurrence of the authorities of the regions concerned.