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The Liaison Group of National Anti-Apartheid Movements in the Countries of the European Community

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The Case for an

INTERIM GOVERNMENT OF NATIONAL UNITY

IN SOUTH AFRICA

A Memorandum

To the President and Council of Ministers
of the European Community

November 1991

1.0 Introduction

The European Community has pursued, since 1985, a common policy approach towards South Africa based on a commitment to seek the total abolition of apartheid and the creation of a united, non-racial democracy. Pressures exerted by the Community and its member states during the second half of the last decade helped to convince Pretoria of the need to reach a political settlement with authentic leaders of the Black majority and to start removing the obstacles to negotiations such as the unbanning of anti-apartheid organisations and the release of political leaders such as Nelson Mandela.

We very much welcome the considerable influence which the Community has brought to bear during 1991 with the aim of removing all obstacles to negotiations, in particular the release of political prisoners and the return of exiles, as well as pressing for effective measures to halt the violence and ensure impartial policing.

Although there continue to be serious outstanding problems, not least the continuing high level of violence and the large number of political prisoners still in custody, including those in Bophuthatswana and especially those on death row, the prospect exists that an All-Party Congress or similar gathering will be convened in the near future which should open the way to negotiations on a new democratic and non-racial constitution for South Africa based on one-person one-vote.

We therefore believe that the European Community now needs to address how best it can assist the peace process forward and ensure that it leads to a genuine end to apartheid and the creation of a united, non-racial and democratic South Africa. This Memorandum examines the most pressing issue - the need to establish an Interim Government of National Unity to rule South Africa during the process of negotiations and transition.

2.0 The need for an Interim Government

It is important to recall that the existing constitutional order in South Africa has been declared "as null and void" by the United Nations Security Council when it adopted Resolution 554 on 17th August 1984. The Security Council in this resolution also rejected any "negotiated settlement based on bantustan structures or on the so-called new constitution."

It would therefore be unacceptable, both to the international community and to the legitimate representatives of the disenfranchised majority population in South Africa, if the government of South Africa would continue during a period of transition on the basis of a constitution which the UN Security Council has declared to be null and void. Indeed there already exists a consensus within the international community that

special transitional arrangements will be required in South Africa during the period of change from an apartheid state to a non-racial democracy. The United Nations Declaration on South Africa, which was drawn up with the full and active participation of European Community member states at the 16th Special Session of the General Assembly and adopted by consensus on 14th December 1989, sets out 'Guidelines to the process of negotiations' point (c) of which reads:

"Agreed transitional arrangements and modalities on the process of drawing up and adoption of a new constitution, and of the transition to a democratic order, including the holding of elections"

Events since December 1989, especially the so-called Inkathagate scandal, have underlined the necessity for rapid agreement on such arrangements. It seems that all key parties to the negotiating process including the National Party now accept that the question of transitional arrangements should be an item on the agenda of the All-Party Congress when it is convened.

The African National Congress and a very wide spectrum of anti-apartheid opinion in South Africa including the non-racial trade unions and the churches are advocating the establishment of an Interim Government (or Transitional Authority as it is sometimes described) as the key element in any transitional arrangements. It would be a government of national unity with a composition acceptable to all key parties and therefore enjoying the confidence of the people of South Africa as a whole.

However it is clear from statements by F.W. de Klerk and other Ministers that the National Party is seeking agreement on transitional arrangements which amount to little more than the co-option of Black leaders into existing structures of white minority rule. Addressing a meeting of the Royal Institute of International Affairs and the Royal Africa Society in London on 23rd April 1991 F.W. de Klerk stated:

"we reject the concept of an interim government. We consider it to be imperative that effective government and administration be maintained in the period leading to a new constitution. This must be done within the framework of present constitutional structures. The idea that the present, lawfully constituted government should simply relinquish its powers, obligations and responsibilities to some or other temporary regime, cannot be considered in any internationally recognised sovereign and independent state."

More recently when announcing the National Party's Constitutional Proposals on 4th September 1991 F.W. de Klerk stated:

"We are not opposed to the concept of transitional arrangements. We are prepared to include this in the agenda for negotiations." But he continued "the maintenance of the sovereignty of the Republic of South Africa and the attendant continuation of government of the day according to the Constitution are not negotiable."

The compelling case for an Interim Government is that the National Party cannot be entrusted with the government of South Africa during the process of transition. This was stated most eloquently by the ANC Deputy President, Walter Sisulu, addressing the Patriotic Front Conference in Durban from 25-27 October. He said:

"Given their track record, who can trust de Klerk to govern our country during the transition? We all know he wants to be referee, player, linesman and write the score."

It is worthwhile recording examples of the 'track record' that Mr Sisulu referred to which serve to underline the case for an Interim Government:

- the South African regime's history of covert funding. There has been a long history of covert funding and dirty tricks by the South African security forces. The Inkathagate and other subsequent exposures demonstrated that these operations are continuing. This covert funding was clearly aimed at undermining and weakening the ANC and other democratic groupings. The process of transition can neither be fair nor democratic if there is a ruling party in power which has a proven record of such activities.

- South Africa's funding of anti-SWAPO parties in Namibia. The disclosure and subsequent admission by the South African Foreign Minister that anti-SWAPO parties had been covertly funded during Namibia's independence elections. The total sum involved was over R100m, of which at least R65m was spent on the DTA - equivalent to #68 for each vote for the DTA cast in the election. If the National Party was willing to breach solemn agreements it had entered into in relation to its impartiality during the implementation of the UN Plan and abuse its powers of government by using state funds illegally to finance anti-SWAPO parties, then there is every reason to believe that, whatever undertakings it gives, it will repeat this practice in South Africa.

- South Africa's breach of agreements. The experience of the period since February 1990 and especially since the adoption of the Pretoria Minute of August 1990 demonstrates a unique capacity of the Pretoria regime to fail to honour agreements it has entered into through prevarication, delays and the unilateral re-writing of such agreements. Such practices could have disastrous consequences if they were to be repeated whilst negotiations were taking place.

- The National Party's moves to pre-empt the policies of a democratic government. A new democratic government will face immense challenges in seeking to address the legacies of decades of apartheid policies. There is growing concern, especially amongst the Black majority, that the National Party is now pursuing economic and social policies which will restrict the policy options of a future democratic government. These concerns focus in particular on privatisation and taxation policies. An Interim Government would ensure that policies during the period of transition would enjoy consensus support.

Indeed there are many positive arguments for an Interim Government. This has led to the proposition having considerable support within the business community. They believe that it could smooth the path of transition to democracy by defusing potentially confrontational relations amongst the main negotiators. They believe also that it would dilute what they see as 'adversarial attitudes' amongst different groups because there would be wider consultation and consensus on proposed legislation. Finally it would result in a gradual rather than sudden change to democratic government and therefore possibly reduce the potential for an ultra right backlash.

Lastly the case for an Interim Government rests on the need to prevent a 'last ditch' attempt by the National Party to block the implementation of a democratic constitution. President de Klerk is already reported to have said that the National Party would block the introduction of a constitution which it finds unacceptable. An Interim Government would reduce the prospects of any party being in a position to prevent an agreed democratic constitution being brought into effect.

Taken together these arguments present an overriding case for an Interim Government which would provide an acceptable framework for the governing of South Africa during the process of transition.

3.0 The composition and role of an Interim Government

As outlined above it is envisaged that the All-Party Congress would have the responsibility for agreeing on the establishment of an Interim Government. It would also be its task to reach agreement on the composition of the Interim Government and its functions. These specifics are properly a matter which it will be for South Africans to resolve.

However the anti-apartheid organisations which participated in the Patriotic Front Conference in October 1991 provided an insight into their approach when in adopting the Conference Declaration they agreed that an Interim Government would "at the very least control security forces and related matters, the electoral process, state media and defined areas of budget and finance, as well as secure international participation."

4.0 The need for European Community support for an Interim Government

The issue which the Council of Ministers and the European Council need to address is whether they should express publicly their support for an Interim Government. We were very encouraged by the decision of the European Parliament to support the establishment of an Interim Government when it adopted the Resolution on Southern Africa on 21st February 1991. However the view has been expressed in some quarters that this is a matter which South Africans themselves should resolve and that it is not appropriate for the international community to be involved.

We believe that this is an incorrect approach, that it could potentially put at risk the entire peace process, and that indeed it is against the Community's interests. These are some of the reasons.

Firstly the case for an Interim Government is overwhelming and one which the European Community should be seen to be associated with fully.

Secondly any transitional arrangements which do not command the confidence of all the people of South Africa will be a source of instability and in all likelihood will result in continuing violence and conflict.

Thirdly it is the "victims of apartheid" i.e. the disenfranchised and dispossessed majority who are insisting on an Interim Government including the European Community's South African partners in the EC's Special Programme for the Victims of Apartheid.

Fourthly it is in the interests of all South Africans - and indeed of the European Community - that rapid progress is made to secure a negotiated political settlement. The potential for delay and procrastination over the question of transitional arrangements is immense. It would be humiliating and therefore unacceptable for leaders such as Nelson Mandela to agree to a process of co-optation into the existing white minority system of government. An effective intervention by the European Community, however, could convince the National Party of the need to accept an Interim Government.

Finally the establishment of an Interim Government would open the way to the Community normalising its relations with South Africa on a basis which is acceptable to all parties and to the mutual benefit of both South Africa and the Community and its member states.

5.0 Conclusion

We believe that the case in favour of an Interim Government of National Unity to rule South Africa during the process of transition is overwhelming. Likewise we believe that there are compelling arguments for the European Community to use its influence to ensure that rapid agreement is reached on the establishment of an Interim Government.

We are obviously encouraged by the growing support within the international community for an Interim Government. We welcomed the decision in February 1991, referred to above, of the European Parliament to support the establishment of an Interim Government. The Commonwealth Committee of Foreign Ministers on Southern Africa meeting in New Delhi in September supported this call. Indeed the British Prime Minister, John Major MP, is reportedly supportive of the proposition. According to the British press he discussed with the ANC President Nelson Mandela during the Commonwealth summit the prospect of "a future transitional government run by the African National Congress".

We wish to recommend that the European Community takes a lead in giving its full support to the concept of an Interim Government of National Unity and that the Community and its member states resolve to use their considerable influence to ensure rapid agreement on the establishment of such an Interim Government.

We would hope, therefore, that the Foreign Affairs Council could place this matter on its agenda with a view to recommending to the European Council meeting in Maastricht that it issues a Declaration on South Africa calling for the establishment of an Interim Government of National Unity which would rule South Africa during the process of transition from an apartheid state to a united, non-racial and democratic society.

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