

CHAPTER 5

THE IMPLEMENTATION OF THE ARMS EMBARGO DURING THE SECOND TERM OF THE REAGAN ADMINISTRATION, 1985 – 1988

5.1 INTRODUCTION: THE REAGAN ADMINISTRATION VS. THE ANTI-APARTHEID MOVEMENT

In September 1984, a renewed spate of unrest in South Africa acted as the first catalyst for a change in the Reagan Administration's policy toward South Africa. The unrest started as a reaction by South African blacks to the establishment by the South African Government of a new Parliament where Indians and Coloreds would share power with the white South Africans on a national level. Black South Africans were excluded from this new dispensation. The step ignited violent uprisings in the black townships, to which the South African Government responded by declaring a state of emergency and acting strongly against any violence. Large numbers of black South Africans were arrested; unfortunately not only those who were involved in violent clashes with the police, but also many who participated in peaceful protests. The situation turned extremely ugly when Labor Union leaders were harassed, deaths in detention occurred and massive searches of private homes in the black townships were conducted. Sweeping bans on political meetings were also instituted.¹

Although the Reagan Administration was the first government to voice its concern about the situation in South Africa publicly, calling it repugnant, Chester Crocker in a statement before the Subcommittee on African Affairs of the Senate Foreign Relations Committee on 26 September 1984 made it clear that the Reagan Administration remained opposed to economic sanctions, an issue that was discussed increasingly in the US Congress. This stance was soon to change due to mounting domestic pressure for action against South Africa. Reagan was re-elected as US President on 6 November 1984 in a landslide victory over the Democrat candidate Walter Mondale, but the South

1. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Research Document* entitled Sanctions against South Africa: Current legislative issues, compiled by B.M. Branaman for the Congressional Research Service, 14 August 1986; C.A. Crocker, An update of Constructive Engagement in South Africa, Statement before the Subcommittee on African Affairs of the Senate Foreign Relations Committee on 26 September 1984, *Department of State Bulletin*, January 1985, p. 5.

African sigh of relieve about this fact was short-lived. Anti-apartheid activists in the US, after six years of lobbying, were tired of non-action on the part of the US Congress. They decided that the time had come for boldly defiant gestures that would tell the South African Government and the Reagan Administration that they meant business. Hundreds of anti-apartheid demonstrators started to protest outside the South African Embassy in the US, and a new campaign, the Free South Africa Movement, was born. As 1984 went over into 1985, more and more people joined the campaign. All over the US, satellite demonstrations were held before South African diplomatic and consular offices, and many prominent politicians, labor leaders, movie stars etc. were deliberately having themselves arrested, which in turn received good coverage by newspapers. As a result, even more volunteers were drawn to the demonstrations to be arrested.²

The political demonstrations in the US did not go unnoticed in South African arms producing circles. In fact, in a letter from Armscor to the State Security Council in November 1984, concern about the possible effect of the political demonstrations on US policy could be clearly detected. Nonetheless, true to the defiant nature of the South African Government of the time, recommendations of actions to limit the effect of sanctions against South Africa did not lack far behind the concern. It was recommended that South Africa be aligned with other countries in Southern Africa in the scientific and technological areas. On the one hand, the potential boycotter would then realize that other parties would also be disadvantaged by any punitive measures, while on the other hand, institutions that were favorable towards South Africa could be offered arguments on why they should continue their supply of equipment to South Africa. Even more important, a cooperation agreement between South Africa and a neighboring country could assist South Africa in countering the arms embargo by obtaining the necessary equipment through a subsidiary in the cooperating country. In Armscor's view, this would in general also establish and promote South Africa's image as an important and constructive partner in Southern Africa. It was further recommended that all details of lobbying for anti-South Africa measures in the US as well as other countries be obtained

2. C.A. Crocker, An update of Constructive Engagement in South Africa, Statement before the Subcommittee on African Affairs of the Senate Foreign Relations Committee on 26 September 1984, *Department of State Bulletin*, January 1985, pp. 5-6; P. van Slambrouck, South Africa's image in US shatters, *The Christian Science Monitor*, 10 December 1984, p. 1; R.K. Massie, *Loosing the bonds*, pp. 558-559; R.I. Rotberg, US shakes stick at South African policies, *The Christian Science Monitor*, 26 December 1984, p. 1.

through whatever means possible, so that it can be studied in preparation of the best way to counter it.³ This implied a major intelligence effort.

On 10 December 1984, the mounting domestic political pressure led to the first crack in Reagan's policy toward South Africa. For the first time since he became President, he abandoned his usual approach of quiet diplomacy and spoke out strongly against South Africa in a speech marking the 36th anniversary of the Universal Declaration of Human Rights, saying that he felt a moral responsibility to speak out against the human and spiritual costs of apartheid. He specifically criticized the South African Government's policies of detention without trial and the forced removal of black people from white areas to the homelands. After the speech, senior officials confirmed that the Reagan Administration had decided to turn up the volume of criticism of the South African policy of apartheid.⁴

5.2 THE EXPANSION OF THE UNITED NATIONS ARMS EMBARGO

On 12 – 13 December 1984, South Africa received another blow when two condemning resolutions were adopted in the United Nations. The first resolution was adopted by the United Nations General Assembly and condemned the occupation of Namibia by South Africa and demanded the territory's independence. One of the paragraphs in the resolution specifically deplored the continued collaboration of certain Western nations, particularly the US and Israel, in political, military, economic and nuclear fields, in disregard of the relevant resolutions of the United Nations. The General Assembly resolution was followed a day later by Resolution 558⁵ in the Security Council, at the request of The Netherlands. This Resolution was accepted unanimously. It reaffirmed the 1977 mandatory arms embargo and expanded it by calling on all nations to resist from buying and importing arms, ammunition of all types and military vehicles produced in South Africa. The US voted for the resolution but made no

3. Armscor Archives (Pretoria), Main Management: Technological and Scientific Action Committee, File 1/15/2/3/1, Volume 5: *Letter*, C.G. Coetzee to Secretary of the State Security Council, November 1984.

4. P. van Slambrouck, US raises volume of criticism of S. Africa, *The Christian Science Monitor*, 12 December 1984, p. 1; R.K. Massie, p. 562; R.I. Rotberg, US shakes stick at South African policies, *The Christian Science Monitor*, 26 December 1984, p. 1.

5. See Appendix III for a full transcript of Resolution 558.

statement afterward. Furthermore, unlike the 1977 arms embargo, Resolution 558 was not mandatory.⁶

The ban on importing arms from South Africa came as a result of an increasingly aggressive marketing strategy of its arms production capacity by Armscor since 1982 in an effort to help keep the South African arms industry economically viable. The aim of this strategy was two-fold: first, to combat inflation, which was running at 15% annually, and second, to obtain funds to purchase sophisticated arms on the world market. As part of its marketing strategy, Armscor started to participate in international arms exhibits, the first being the Defendory 82 arms exhibition in Piraeus, Greece in 1982. Armscor's participation sent shock waves through the world, and on the second-last day of the weeklong exhibit it was expelled from Greece. Nonetheless, two years later Armscor showed off its products at the international FIDA-84 arms exhibition in Chile. One of its star attractions was the G6 mobile artillery unit, which was developed from the 155mm gun blueprints that South Africa had obtained clandestinely from the US/Canadian firm SRC in the late 1970's. By this time, Armscor had reason to be proud with its performance over the preceding seven years since the mandatory arms embargo was instituted. South Africa had become largely self-sufficient in armament production, and its air force and navy were considered as being close to the state-of-the-art of the time. A number of world firsts in military technology were registered, e.g. the mentioned G6 mobile artillery unit, the Cactus missile, the Kukri air-to-air or air-to-ground missile system, which could be directed by the pilot through a special visor in his helmet, and underwater radar detection equipment, among other developments.⁷

After the vote in the Security Council, the South African Ambassador to the United Nations, Kurt von Schirnding, said that it was an illusion to believe that the embargo on arms imports from South Africa would succeed, and that the South African arms industry would thereby be hampered. South Africa would continue the development of its arms industry apace with the requirements of its self-defense. He was totally

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6. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01709: **Resolutions**: General Assembly 19/50 A and B, Condemnation of the occupation of Namibia and demand for its independence, 12 December 1984; Anonymous, U.N. expands arms embargo, *The New York Times*, 14 December 1984, p. A14; Anonymous, Security Council widens S. Africa arms embargo, *Los Angeles Times*, 14 December 1984, p. 12.
 7. C. Murphy, Embargo spurs S. Africa to build weapons industry, *The Washington Post*, 7 July 1981, p. A12; F.J. Parker, *South Africa: Lost opportunities*, p. 148; K. Abendroth, Arms sales ban threat: SA 'isn't worried', *The Citizen*, 15 December 1984, p. 1; S. Landgren, *Embargo disimplemented: South Africa's military industry*, pp. 175-176.

supported in this confident statement by an editorial in the *Pretoria News* on 14 December 1984. According to the editorial, South Africa's enemies were often likely to become totally frustrated with South Africa, because no matter what strategies they devised or what alliances they formed, South Africa every time came out stronger than before. This phenomenon was especially well illustrated by the mandatory arms embargo instituted in 1977. Although the embargo had made itself felt particularly as far as heavy weapons and warplanes were concerned, South Africa was able to establish a weapons industry of such enterprise and expertise that foreign nations sometimes queued to buy the wares. *The Star* of 17 December 1984 reacted to the embargo on arms imports from South Africa by saying that it was ironic. In 1963 and in 1977, the United Nations asked member countries not to sell arms to South Africa, so the latter was forced to develop its own arms industry, which by 1984 exported weaponry of approximately R150 million a year.⁸ In the words of *The Star*: "Now the Security Council asks UN members not to buy arms from us. That loud explosion is just a boycott backfiring".⁹

Nonetheless, not long afterwards a different picture was painted through a memorandum compiled by an Armscor committee on the possible effects on Armscor of further economic measures against South Africa. According to the memorandum, several countries, including the US, had already started to follow the guidelines of Resolution 558 by making the marketing and import of South African military products illegal. Furthermore, the expectation was that this non-binding measure would some time soon be given the same status as Resolution 418 of 1977, thereby making it mandatory for all member countries. Armscor feared a number of consequences of such a step. The most serious consequences were regarded as the cancellation of existing export contracts, which would result in an immediate financial loss of several million Rands; the underutilization of most arms factories, which would result in the closure of several production lines, the retrenchment of approximately 3,000 skilled workers and the resultant loss of important expertise, especially in the area of heavy caliber arms and ammunition; higher unit prices of products delivered to the South African armed forces; and lastly a heavy shock to the high morale in the South African arms production

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8. Anonymous, Security Council widens S. Africa arms embargo, *Los Angeles Times*, 14 December 1984, p. 12; K. Abendroth, Arms sales ban threat: SA 'isn't worried', *The Citizen*, 15 December 1984, p. 1; R. Devenish, SA to continue arms sales push, *Pretoria News*, 14 December 1984, p. 1; Anonymous, UN bid is doomed to fail once again (Editorial), *Pretoria News*, 14 December 1984, p. 14; Anonymous, Arms and the ban (Editorial), *The Star*, 17 December 1984, p. 8.
 9. As quoted in Anonymous, Arms and the ban (Editorial), *The Star*, 17 December 1984, p. 8.

industry. A further extension of general trade restrictions would in the short term affect the arms production industry's import of manufacturing equipment, resources and sophisticated electronic components. Further limitations of the import of computer hardware and software would cause no damage on the short term, as enough were available in order to continue. On the medium term, a shortage of components would begin to place a limitation on computer capacity, unless the South African electronics field developed rapidly enough to supply these components, or it was imported clandestinely. On the long term, this limitation would have a serious influence on the arms industry, for the simple reason that computer technology was developing at a rapid pace, and arms systems and products would benefit better from more sophisticated computer-assisted design, production and application. Lastly, extended limitations on movement and communication would seriously hamper clandestine acquisition and marketing.¹⁰

5.3 THE SOUTH AFRICAN SANCTIONS DEBATE

By early 1985, the anti-apartheid demonstrations in the US had gained much momentum and the voice for boycotts, sanctions or embargoes grew louder by the day. The momentum was further spurred by a report in a digest called *Africa News*, which alleged that the granting of licenses to South Africa for military-related items such as aircraft, computers and communication equipment almost doubled during the first term of the Reagan Administration. Simultaneously, licenses for items on the Munitions List had risen from \$12 million to \$88 million. The result of the renewed momentum of the anti-apartheid movement was that dozens of US universities, religious denominations and foundations decided to divest from South Africa, followed by large institutions, municipal governments and state legislators passing measures to restrict the stock they could own in and products they could buy from South Africa. US firms with South African subsidiaries responded to the call, fearing the potential loss of their biggest customers in the US if they did not respond. Some examples include the Bank of Boston and Morgan Guaranty who announced bans on loans to South Africa, Perkin-Elmer, a manufacturer of specialized optical and electronic equipment who sold its South African

10. Armscor Archives (Pretoria), Main Management, Committees, Commissions and Control Boards, State Security Board, Committee for Scientific and Technological Action, File 1/15/2/3/1, Volume 4: *Memorandum* on the possible effect on Armscor of further economic punitive measures against the RSA, December 1984.

subsidiary, Pan American Airlines who suspended its flights to South Africa and Motorola who announced that it would stop selling radios to the South African police.¹¹

Despite the pressure and the strong denouncement of South Africa in December 1984, the Reagan Administration remained opposed to sanctions or any other measures over and above the arms embargo. On 16 April 1985, Secretary of State Shultz stated categorically that the Reagan Administration rejected the view of cutting South Africa off from the Western world through sanctions, boycotts or embargoes other than the arms embargo, with the argument that even if it brought no change in South Africa, it would put the US on the side of what was right. Shultz was of the opinion that such measures would lead the US down the road of ineffectual actions that were more likely to strengthen resistance to change than to strengthen reform. Chester Crocker, who had watched with dismay the growing controversy over the strategy that he had nurtured for four years on the premise that political reform could not come to South Africa until after the regional conflicts in Southern Africa had been solved, agreed with Shultz in a speech two days later. He even went further than Shultz in what he termed an effort to set the record straight. He spoke out quite strongly on the current discussions about South Africa in the US, saying that they should be based on facts and a reasonable understanding of the issues and the policies of the Reagan Administration. According to Crocker, it had not been the case, as the Reagan Administration frequently faced a litany of warped statements, misrepresentations or outright falsifications of the facts, which had the clear intention of discrediting US policy toward South Africa.¹²

Crocker specifically had a lot to say about allegations of violations of the arms embargo by the Reagan Administration. He said that it should have been clear to any objective observer that the US' relationship with South Africa was far from normal. This was clear from the significant embargoes and restrictions in the military and nuclear areas, the most recent being the vote in the Security Council for an embargo on the import of arms and ammunition from South Africa in December 1984. According to Crocker, the claims that the Reagan Administration supported the enforcement of apartheid by

11. G. Frankel, U.N. arms ban proves costly to South Africans, *The Washington Post*, 24 February 1985, p. A1; R.K. Massey, *Loosing the bonds*, pp. 575-578.

12. S. Shultz, Southern Africa: Toward an American Consensus: Address before the National Press Club on 16 April 1985, *Department of State Bulletin*, June 1985, p. 25; R.K. Massie, *Loosing the bonds*, p. 583; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01795: **Statement** by C.A. Crocker before the Subcommittee on Africa of the House Foreign Affairs Committee, 17 April 1985.

permitting South Africa to import mainframe computers to implement the pass laws that controlled the lives of millions of black South Africans, were utterly false. The policy of the Reagan Administration was to prohibit the sale of computers to the South African military and police or any entity in that country that actively enforced apartheid. Concerning the latter entities, Crocker claimed that the Reagan Administration conducted regular prelicense checks on the end-use of agencies such as the South African Post Office, Reserve Bank and ESCOM, and had insisted on the right to do post-license checks as well. To his knowledge, there had been no violations in this regard.¹³

Other claims that the Reagan Administration often heard from critics was that it had sold \$100 million worth of munitions to South Africa, including items such as shock batons. According to Crocker, these claims were complete distortions of the facts, as the Department of State had not licensed any export to South Africa of any item that was subjected to the arms embargo. In fact, Crocker stated, the US export controls went beyond the requirements of the United Nations in this regard, and included many items on the Munitions List that were not subjected to the United Nations embargo. For example, it included items such as encryption devices used in bank teller machines, for which export to South Africa was only authorized for private entities like banks, financial institutions and US corporate subsidiaries, and then only after thorough checks on the recipients and the intended use. These type of items comprised 90% of the value of licenses granted for Munitions List exports to South Africa. The remaining 10% of items had similarly valid end-use by other entities, e.g. image-intensifier tubes for an astronomical observatory. No items for military purposes were approved for export. Crocker did not deny that the system of controls was not perfect. He referred to the shipment of shock batons to South Africa, which was mistakenly authorized. However, the batons was not controlled by the Munitions List, and according to Crocker, it was the US Department of Commerce and not the critics who brought the error to the attention of the Department of State. Therefore, in the light of all that has been said,

13. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01795: **Statement** by C.A. Crocker before the Subcommittee on Africa of the House Foreign Affairs Committee, 17 April 1985; C.A. Crocker, U.S. response to Apartheid in South Africa: Statement before the Subcommittee on Africa of the House Foreign Affairs Committee on 17 April 1985, *Department of State Bulletin*, June 1985, pp. 39-40.

Crocker was adamant that it was blatantly untrue to accuse the Reagan Administration of approving or increasing arms sales to South Africa.¹⁴

Concerning US-South African nuclear cooperation, Crocker asserted that many critics had accused the Reagan Administration of supporting the South African acquisition of sensitive nuclear technology. They claimed that South Africa could not have developed its nuclear potential without active assistance from the US. Crocker in answer pointed out that South Africa was a technologically advanced nation that had pursued an independent nuclear program for three decades. Therefore, Crocker was of the opinion that it would stretch the imagination to envision how the US could have prevented South Africa from developing an indigenous nuclear program. Nonetheless, US law and policy barred all significant nuclear transfers to countries like South Africa that have not accepted full-scope nuclear safeguards. Furthermore, the US had strict controls over transfers of nuclear technology, whereby all applications for exports of nuclear-related equipment or assistance were thoroughly reviewed so that only limited, non-sensitive transactions were permitted. In the light of this, the Reagan Administration had approved for export to South Africa only unclassified, non-sensitive items for use in fully safeguarded civil nuclear facilities. Crocker denied that neither the Reagan Administration nor any of its predecessors had provided any assistance in any form to weapons-related nuclear research in South Africa.¹⁵

In conclusion to his speech, Crocker emphasized the point he was trying to make with the following words: *"The helicopters flying South African soldiers and police are not American. The nuclear power plant outside Cape Town is not American. Computers used by security forces and apartheid-enforcing agencies are not American. We have in place strong and effective policies that distance our country from such fields, sending both a tangible and symbolic signal that is clearly understood in South Africa. Our policies in this regard are the most rigorous of any of its major industrial trading*

14. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01795: **Statement** by C.A. Crocker before the Subcommittee on Africa of the House Foreign Affairs Committee, 17 April 1985; C.A. Crocker, U.S. response to Apartheid in South Africa: Statement before the Subcommittee on Africa of the House Foreign Affairs Committee on 17 April 1985, **Department of State Bulletin**, June 1985, pp. 39-40.

15. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01795: **Statement** by C.A. Crocker before the Subcommittee on Africa of the House Foreign Affairs Committee, 17 April 1985; C.A. Crocker, U.S. response to Apartheid in South Africa: Statement before the Subcommittee on Africa of the House Foreign Affairs Committee on 17 April 1985, **Department of State Bulletin**, June 1985, pp. 39-40.

partners."¹⁶ In May 1985, the Reagan Administration sent another tangible and symbolic signal to the South African Government when Armscor reported that it had received a letter from the Scientific Liaison Office in Washington, D.C. concerning state-imbursed scientists and engineers from the US who wanted to visit South Africa. These scientists and engineers would in future be denied permission by the US Government to attend conferences or other meetings in South Africa if such conferences or meetings would be held in the homelands. They would furthermore be forbidden to visit South Africa if their costs were to be carried by any South African government department or scientific council. Armscor therefore encouraged institutions in South Africa who wanted to invite scientists and engineers from the US to mention in the invitations that funding for the visits would be provided by a university or a private sector firm.¹⁷

In the meantime, Congressional support for sanctions against South Africa grew rapidly. To make matters worse, events in South Africa deteriorated by the day as the South African Government's security machinery once again attempted to crush its enemies and conflict between the United Democratic Front (UDF) and other black groups grew. As a result, divestment measures piled up in all sectors in the US. In the House of Representatives, more than twenty bills were filed against South Africa. On 2 May 1985, the House of Representatives Foreign Affairs Committee overwhelmingly approved a bill that would bar new private US investment in South Africa. The bill would prohibit new US investments and bank loans in South Africa, cut off existing computer contracts with the South African Government, and prohibit importation of the South African gold Krugerrand, a collector's and investor's item. The cut-off of computer contracts especially was significant for the arms embargo implementation regulations, which had long been a controversial and much-discussed item during the first term of the Reagan Administration, as discussed in foregoing parts of this chapter.¹⁸

16. As quoted in *South Africa: The making of United States policy, 1962 - 1989*, microfiche collection: National Security Files, fiche 01795: **Statement** by C.A. Crocker before the Subcommittee on Africa of the House Foreign Affairs Committee, 17 April 1985.

17. Armscor Archives (Pretoria), Main Management, Committees, Commissions and Control Boards, State Security Board, Committee for Scientific and Technological Action, File 1/15/2/3/1, Volume 4: **Minutes** of a meeting of the Committee for Science and Technology, 23 May 1985.

18. R.K. Massie, *Loosing the bonds*, pp. 580, 582-583; S. Engelberg, House panel favors Pretoria sanctions, *The New York Times*, 3 May 1985, p. A3.

On 5 June 1985, the House of Representatives voted 295 to 127 in favor of a measure imposing an immediate ban on new investment in and gold-coin imports from South Africa. The passing of the bill with such a huge majority meant that 65 Republican Party members voted against their own president. Meanwhile, a companion bill was also pending in the Senate and on 11 July 1985, it voted 80 to 12 in favor of a sanctions measure that would ban new US bank-lending to the South African Government and its state-controlled agencies, create a total ban on nuclear-related trade between the US and South Africa, codify existing curbs on computer exports to South Africa, and mandate corporate adherence to the previously voluntary fair employment policies known as the Sullivan principles.¹⁹

But despite the pressure from the anti-Apartheid Movement and the steps mentioned in the previous two paragraphs, as well as the declaration of a state of emergency and the conferment of almost unlimited powers to the police and military by South African President P.W. Botha, the Reagan Administration remained reluctant to impose sanctions against South Africa. In a statement before the United Nations Security Council on 25 July 1985, the US Ambassador to the United Nations reiterated that his country had on numerous occasions over the years conveyed to the South African Government its firm conviction that apartheid would sooner or later lead that country into chaos. To underscore the seriousness of this conviction, various measures had been undertaken against South Africa: support of the 1963 United Nations arms embargo as well as the 1977 mandatory United Nations arms embargo, to which the US added more severe regulations than required by the United Nations by restricting sales to the South African military and police, and support for the December 1984 United Nations embargo on imports of arms and ammunition from South Africa. Furthermore, the US Ambassador had been recalled to the US just prior to the Security Council meeting, and the Reagan Administration had also restricted its commercial relationship with South Africa. Lastly, export license applications for the export of, among other things, US crime control equipment were carefully reviewed on an ongoing basis, in order to prevent the use of such items in the enforcement of apartheid. However, according to the Ambassador, the Reagan Administration was not convinced that extensive trade sanctions in addition to the arms embargo were suitable means to discourage apartheid.

19. C.A. Crocker, *High Noon in Southern Africa: Making peace in a rough neighborhood*, p. 264; L.E.S. de Villiers, *US sanctions against South Africa: A historical analysis of the sanctions campaign and its political implications, 1946-1993*, pp. 246-248.

Indeed, in their view it could only have a disruptive effect on the South African economy that had been increasingly open to black people in recent foregoing years.²⁰

On 26 July 1985, six days after a state of emergency was announced in South Africa, the United Nations Security Council adopted Resolution 569, which expressed deep concern and outrage at the deteriorating situation in South Africa, the repression of millions of people, the imposition of a state of emergency in the country, and the use by the South African Government of detention without trial, forcible removal and discriminatory legislation. Member states of the United Nations were urged to adopt commercial and sport restrictions against South Africa, as well as prohibition regulations concerning all sales of computer equipment that might be used by the South African military and police. The US, in a departure from its usual support for South Africa in the United Nations, abstained on voting for the resolution. The reason: the Senate majority leader just a few days prior to the passing of the resolution warned Reagan that anti-South African sentiment in both houses of the US Congress was so strong that it could override an Administration veto for sanctions legislation against South Africa. Nonetheless, in a statement the day after the adoption of Resolution 569, the US Ambassador said that his country supported most of the elements in the resolution, especially an end to the state of emergency and the prohibition of all computer-related sales to the South African military and police, which the Reagan Administration had indeed already extended earlier to the South African Government agencies as part of its implementation of the arms embargo. However, the US underlined that it would maintain its policy of constructive engagement, and therefore it did not support actions to restrict new investment in South Africa. A few days later, Crocker again reiterated this policy line in an address before the Commonwealth Club in San Francisco.²¹

On 15 August 1985, South African President P.W. Botha finally ignited an explosion in the US with his so-called Rubicon speech. Unknown to Botha, his speech was transmitted live into the homes of all spectrums of society in the US. What was sold by

20. V.A. Walters, Security Council meets on situation in South Africa: Statement by Ambassador Vernon A. Walters, U.S. Ambassador to the United Nations, on 25 July 1985, *Department of State Bulletin*, October 1985, pp. 54 – 55.

21. United Nations, Security Council Resolution 569 of 26 July 1985, *Department of State Bulletin*, October 1985, p. 55; W. Clark, Statement on Security Council Resolution 569 by Warren Clark, Jr., U.S. Permanent Representative to the United Nations on 26 July 1985, *Department of State Bulletin*, October 1985, p. 55; C.A. Crocker, The U.S. and South Africa, A framework for progress: Address before the Commonwealth Club in San Francisco on 16 August 1985, *Department of State Bulletin*, October 1985, pp. 4 – 7; R.K. Massie, *Loosing the bonds*, p. 585.

South African Foreign Minister Pik Botha to the Reagan Administration just a week before as a prospect of dramatic reform in South Africa, turned out to be a complete disaster. Botha started his speech with an assertion that the South African Government had "*crossed the Rubicon of reform*"²² by accepting the permanency of black people in the urban areas of South Africa, but he quickly fell into the ideological Rubicon when he ruled out any real reform, stating that the black homelands would remain, that a fourth chamber of parliament for Africans would not be a practical move and that Nelson Mandela, a leader of the ANC jailed since the early 1960's, would not be released unless he agreed to a set of restrictive conditions.²³

Botha's speech sent shock waves through all spectrums of society in the US, including state legislatures, city council members, universities and big commercial concerns. In the Reagan Administration, Secretary of State George Shultz and Reagan's National Security Advisor, Robert McFarlane, agreed that some sort of congressional sanctions against South Africa were now inevitable. Reagan had but one alternative to this, namely to seize the initiative and implement some measures of his own through an executive order. To make matters worse for South Africa, a report prepared by the United Nations Center on Transnational Corporations for the start of the 40th United Nations General Assembly in September 1985 was released on 21 August 1985. The report stated that South Africa was at the time better equipped militarily than it was 22 years before when the United Nations first imposed an arms embargo against the country. Furthermore, the report stated, South Africa was continuously expanding and upgrading its military force because of its perception of an external threat to the country. The report estimated South Africa to be the 10th largest arms manufacturer in the world, and concluded that the various arms embargoes of 1963, 1977 and 1984 had not achieved their primary goals of helping to eliminate apartheid nor to reduce the threat of war in the Southern Africa region. Concerning South Africa's nuclear power, the report found that the Valindaba uranium enrichment plant was estimated to produce enough plutonium for two to three nuclear bombs a year. Nonetheless, the report reiterated that although the embargoes were imperfect, they were a necessary part of international policy to eliminate apartheid.²⁴

22. As quoted in R.K. Massie, *Loosing the bonds*, p. 586.

23. R.K. Massie, *Loosing the bonds*, p. 586.

24. R.K. Massie, *Loosing the bonds*, pp. 587-588; Anonymous, S. Africa military called stronger despite 22-year arms embargo, *Los Angeles Times*, 21 August 1985, p. 11.

In the US, the report fueled the sanctions debate even more. Talks about a mandatory ban on buying South African weaponry surfaced again. In South Africa, fears abounded that such an embargo would have a far greater effect on the country than the sanctions legislation pending in the US Congress. The pending sanctions expected to be passed in the US Congress were regarded as merely a slap rather than a crushing blow to the South African economy. Indeed, as the sanctions debate headed towards a climax, the Reagan Administration was left with two choices: It could continue with constructive engagement and veto the sanctions legislation pending in Congress, thereby risking a veto override, or it could acknowledge that the policy of constructive engagement had failed and it was time for sanctions. For Crocker, the choice between the two options was phony, as sanctions against South Africa had been incorporated in US policy since the voluntary arms embargo was instituted in 1963. The sanctions, as already known, included bans on the trade of arms and military or nuclear-related technology, restrictions on computer licenses for certain clients in South Africa, etc. On the other hand, Crocker did not think that sanctions were a policy. Rather, for him they were one possible instrument of policy, dependent on the raw coercive potential of the sanction itself. Furthermore, measuring the success of the coercion was difficult. As stated earlier, in the case of South Africa, the arms embargo successfully raised the price of arms and complicated the acquisition of a wide range of items by the SADF. On the other hand, the embargo helped South Africa in creating a large and diversified arms industry. Furthermore, by 1984, international arms sales by South Africa formed an important part of this multi-million-rand industry. In an effort to counter the massive production costs, South Africa had to sell as many arms as possible after its own needs were satisfied. Thus, Crocker argued, sanctions created pressures for self-sufficiency, and therefore its success was limited.²⁵

Due to the mounting pressure and seeming inevitability of sanctions against South Africa, Reagan met with his top advisors on 5 September 1985 to discuss how the US could use its influence to end the violence in South Africa and bring about talks between the South African Government and prominent black leaders in the country. The meeting was followed with a National Security Decision on US policy toward South Africa, dated 7 September 1985. In the document, it was stated that the important political, commercial and strategic interests of the US were being threatened by

25. A. Walker, Arms sales ban could hit SA where it really hurts, *The Star*, 23 August 1985, p. 12; C.A. Crocker, *High noon in Southern Africa: Making peace in a rough neighborhood*, pp. 268-269.

widespread violence and increased tension in South Africa and by continued communistic challenges in the Southern Africa region. Nonetheless, nowhere in the document did the Reagan Administration make any statement indicative of stronger measures towards South Africa. Instead, the broad objectives of the political strategy of Constructive Engagement were once again re-emphasized. The only mention of arms-embargo related issues was a reference to continued efforts to work with South Africa and the IAEA to safeguard South African nuclear facilities and to obtain South African adherence to the Nuclear Non-proliferation Treaty. Concerning sanctions against South Africa, the document stated that the Reagan Administration would continue to promote its policy in the United Nations and other international fora and oppose new, international mandatory economic sanctions against South Africa. In accordance to the National Security Decision, a special working group was established under State Department chairmanship to plan and implement a strategy for gaining better public understanding and support of US policy toward South and Southern Africa.²⁶

Two days after the above National Security Decision, on 9 September 1985, Reagan surprised many with an Executive Order prohibiting trade and certain other transactions involving South Africa, thereby preempting Congressional legislation and averting a foreign policy defeat for his Administration. Refraining from calling the Executive Order sanctions, Reagan stated that it was a set of measures designed and aimed against the machinery of apartheid without indiscriminately punishing the people who were victims of the system of apartheid. According to Reagan, the measures would disassociate the US from apartheid but associate it with peaceful change. As this research study specifically deals with the implementation of the US arms embargo against South Africa, a discussion of each of the measures contained in the Executive Order is not deemed necessary. Concerning measures applicable to the arms embargo, a number were implemented. First, a ban on all exports of computers, computer software, or goods or technology intended to service computers, to the South African Government and its entities, including the military, police, prison system, national security agencies, Armscor and its subsidiaries, the weapons research divisions of the CSIR, administering authorities for the black passbook and similar controls, any apartheid enforcing agency and any local or regional government or homeland entity that performed any function of

26. B. Gwertzman, Reagan and aides review policy on South Africa, *The New York Times*, 6 September 1985, p. A9; Reagan Presidential Library, File NLS-NSC-NSDD-187: *National Security Decision*, United States policy toward South Africa, 7 September 1985; Reagan Presidential Library, File NLS-NSC-NSDD-187: *Memorandum*, N. Platt to R.C. McFarlane, 1 October 1985.

any entity described before. The US Secretary of Commerce was authorized to promulgate such rules and regulations as may be necessary to carry out this measure and to implement a system of end use verification to ensure that any computers exported directly or indirectly to South Africa will not be used by any of the mentioned entities.²⁷

Second, a prohibition was introduced on the issuance of any license for the export to South Africa of goods and technology that could be used in a nuclear production or utilization facility, or which, in the opinion of the Secretary of State, were likely to be diverted for use in such a facility. The prohibition furthermore included any authorization to engage, directly or indirectly, in the production of any special nuclear material in South Africa, any export license for component parts or other items or substances especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes, and any approval of retransfers to South Africa of any goods, technology, special nuclear material components, items or substances already described. The US Secretaries of State, Commerce, Energy and Treasury were authorized to take such actions as may be necessary to carry out these measures. Also, nothing of the mentioned prohibitions would preclude assistance for International Atomic Energy safeguards or IAEA programs generally available to its member states, or for technical programs for the purpose of reducing proliferation risks, such as for reducing the use of highly enriched uranium and activities envisaged by the US Nuclear Waste Policy Act or for exports that the US Secretary of State determined were necessary for humanitarian purposes to protect the public health and safety.²⁸

Third, a ban was placed on the import into the US of any arms, ammunition or military vehicles produced in South Africa or of any manufacturing data for such articles. The

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27. The White House, South Africa: Presidential Actions. Texts of President Reagan's remarks made in the White House and the Executive Order signed at the conclusion of the remarks on 9 September 1985, *Department of State Bulletin*, October 1985, pp. 1-3; Reagan Presidential Library, Speeches, Online Document 90985c: **Message** to the Congress reporting on the prohibition of trade and certain other transactions involving South Africa, 9 September 1985; National Archives and Records Administration, Federal Register, Online document e12532: **Executive Order** 12532 – Prohibiting trade and certain other transactions involving South Africa, 9 September 1985.
28. The White House, South Africa: Presidential Actions. Texts of President Reagan's remarks made in the White House and the Executive Order signed at the conclusion of the remarks on 9 September 1985, *Department of State Bulletin*, October 1985, pp. 1-3; Reagan Presidential Library, Speeches, Online document 90985c, **Message** to the Congress reporting on the prohibition of trade and certain other transactions involving South Africa, 9 September 1985; National Archives and Records Administration, Federal Register, Online document e12532, **Executive Order**: 12532 – Prohibiting trade and certain other transactions involving South Africa, 9 September 1985.

Secretaries of State, Treasury and Defense were authorized to take such actions as may be necessary to carry out this measure.²⁹

Despite adopting most of the trade and financial actions against apartheid that were sought by the US Congress and thus signaling a major reversal of policy, Reagan was adamant that he would not sign a comprehensive bill of economic sanctions that was serving before the Senate when he announced his Executive Order. According to Reagan, such a bill would only hurt the very people the US was trying to help, i.e. the South African black community. However, his Executive Order was not received too positively by the majority of Americans as well as in South Africa. The latter denounced Reagan's announcement and said that outside attempts to interfere in South Africa's affairs would only retard racial change in the country. In the US, the White House and the leadership of the ruling Republican Party characterized Reagan's action as largely an effort to avoid a head-on collision with the Congress over sanctions. The opposition Democratic Party, together with some Republicans, made it clear that they would fight to get a tougher package of sanctions accepted in the Senate, thereby forcing Reagan to veto the bill. They argued that Reagan's measures were significantly weaker than those included in the legislation before the Senate.³⁰

Many trade analysts felt that Reagan's limited measures, which they called sanctions, would have a negligible impact on the South African economy and on US companies doing business with South Africa. However, on the other hand they felt that the decision might have psychological effects and strengthen the resolve of other countries to expand their own sanctions against South Africa. Some other analysts were of the opinion that the sanctions would encourage the South African Government to redouble its effort to build a self-supporting economy, as was already evident from the build-up of the South African arms industry as a result of the arms embargoes. Furthermore, the

29. The White House, South Africa: Presidential Actions. Texts of President Reagan's remarks made in the White House and the Executive Order signed at the conclusion of the remarks on 9 September 1985, *Department of State Bulletin*, October 1985, pp. 1-3; Reagan Presidential Library, Speeches, Online document 90985c, *Message* to the Congress reporting on the prohibition of trade and certain other transactions involving South Africa, 9 September 1985; National Archives and Records Administration, Federal Register, Online document e12532, *Executive Order*: 12532 – Prohibiting trade and certain other transactions involving South Africa, 9 September 1985.

30. Anonymous, Excerpts from Reagan's remarks and question session with reporters, *The New York Times*, 10 September 1985, p. A12; Anonymous, News summary, *The New York Times*, 10 September 1985, p. B1; A. Cowell, Botha declares sanctions will retard racial changes, *The New York Times*, 10 September 1985, p. A12; J. Fuerbringer, Senators fighting for tougher move, *The New York Times*, 10 September 1985, p. A12.

sanctions on computers, computer equipment and computer software used by South African public agencies to enforce apartheid, as well the sanctions on nuclear equipment that could be used for military purposes, merely validated changes already put in effect earlier in the Reagan Administration.³¹ The following comment by the co-chairman of the Free South Africa Movement, Randall Robinson, perhaps sums up the general feeling of critics: *"The executive order and speech were designed to help him [Reagan] reconcile his reflexive sympathy for the white minority government of South Africa with the building opposition to his program of constructive engagement in the US."*³²

5.3.1 REAGAN'S EXECUTIVE ORDER AND THE ARMS EMBARGO

Criticism of Reagan's limited sanctions was further fueled in late September 1985 when various testimonies were delivered before a special United Nations panel that was appointed by the United Nations Secretary-General to study whether transnational corporations doing business in South Africa were aiding apartheid. The hearings before the panel touched on all aspects of trade. Concerning the trade in arms, a researcher of the American Friends Service Committee, Thomas Conrad, told the panel that the arms embargo against South Africa was being evaded through what he termed a *"brisk invisible military trade"*³³ by transnational corporations. According to Conrad, transnational corporations were important conduits for the supply of strategic arms technology to South Africa. As a result, South Africa had been able to build up the largest arms industry in the Southern Hemisphere, mainly through access to the high-tech building blocks of modern weaponry, i.e. computers, microprocessors, instrumentation equipment, electronic components, and sub-assemblies for use in larger weapons systems. Regarding US transnational corporations specifically, Conrad alleged that 33 of the more than 400 US companies doing business in South Africa ranked among the top 100 contractors of the US Department of Defense in 1984. In addition, companies like IBM, Control Data Corporation, Hewlett-Packard, NCR, Burroughs and General Motors also supplied high technology to South Africa. However, Conrad took care to say that these facts did not prove that all US arms manufacturers with

31. P.T. Kilborn, Psychological effects seen for curbs, *The New York Times*, 10 September 1985, p. A13; G.D. Moffett III, History of sanctions shows South Africa's resilience, *The Christian Science Monitor*, 9 September 1985, pp. 1-2.

32. As quoted in F.X. Clines, Foes and friends of Pretoria criticize Reagan's sanctions, *The New York Times*, 10 September 1985, p. A13.

33. As quoted in Anonymous, UN told arms embargo being evaded, *Pretoria News*, 19 September 1985, p. 3.

subsidiaries in South Africa were necessarily selling military technology to the South African Government. Nonetheless, it did provide a structural context for evading the arms embargo. He suggested also that total high-tech sales to South Africa were likely to be much higher than the R250-million worth of computers and related equipment sold to South Africa by US firms during a 16-month period ending in April 1985, because such firms usually had subsidiaries in third countries that exported directly to South Africa, thereby bypassing the US.³⁴

Abdul Minty, Director of the World Campaign against Military and Nuclear Collaboration with South Africa, testified before the special United Nations panel that the growing military confrontation in South Africa made it important to identify transnational corporations that operated in the South African military sector. He, too, alleged that the arms embargo had been seriously weakened by clandestine exports and corporations that labeled goods as dual purpose in order to bypass export regulations. Furthermore, he pointed out that South Africa did not observe the Nuclear Non-proliferation Treaty but benefited from being a member of the IAEA. The country also had secret enrichment plants, according to Minty. When the panel asked him how the export of dual-purpose military equipment could be prevented, Minty pointed out that the US had succeeded in preventing the shipment of certain computers to the Soviet Union via Germany and Sweden; therefore it could surely take similar steps vis-à-vis South Africa.³⁵

When a secret memorandum from the top manager of Armscor security to the secretary of the company, dated 9 October 1985, is studied, Conrad and Minty seemed to have been thorough in their investigations, or at least in some aspects thereof. According to the memorandum, unconfirmed information indicated that the American Friends Service Committee, who had links with the United Nations, had completed an investigation into arms exports to South Africa and had found that although states tried to adhere to the United Nations arms embargo, it was mainly multinational companies that violated the embargo. Accordingly, Armscor could expect that the focus would fall increasingly on multinational corporations with possible links with South Africa and that there would be efforts from especially governments and pressure groups to lay clear any real weapons-

34. Anonymous, UN told arms embargo being evaded, *Pretoria News*, 19 September 1985, p. 3; Anonymous, Invisible military trade helps SA, *The Citizen*, 19 September 1985, p. 16; United Nations, Fifty-two witnesses present testimony during four days of hearings on transnational corporations in South Africa, *UN Chronicle* 22, November-December 1985, p. 8.

35. United Nations, Fifty-two witnesses present testimony during four days of hearings on transnational corporations in South Africa, *UN Chronicle* 22, November-December 1985, p. 9.

type connections. Armscor was therefore urged to be security sensitive in its involvement with such corporations and to ensure that all related activities were thoroughly concealed.³⁶

On 11 October 1985, the ban on the import of arms from South Africa announced by Reagan in September took effect. The ban included tanks, armored cars, handguns, rifles, ammunition and technical manuals and was imposed by the US Department of Treasury's Bureau of Alcohol, Tobacco and Firearms. A spokesman for the Bureau said that although South Africa at that stage did not sell any military items to the US, it was believed that the country was getting ready to export firearms in the near future. The ban would cut South Africa off before it was able to go to the US to promote its items. The South African Embassy frowned at this assertion, commenting that it was not aware of any plans to export South African arms to the US.³⁷

Following the announcement of the limited sanctions package, the Reagan Administration also published an updated Federal Regulations package concerning trade in arms. One section, i.e. Section 126.1 of the Code of Federal Regulations (1985 edition), specifically dealt with International Traffic in Arms Regulations. It stated that it was the policy of the US to deny licenses and other approvals with respect to defense articles and defense services destined for or originating in certain countries or areas, including countries or areas with which the US maintained an arms embargo. This included exports originating in such countries or areas. Concerning shipments, it was stated that a defense article licensed for export may not be shipped on a vessel, aircraft or other means of transport owned, operated or leased by any of these countries.³⁸

In the section on Department of Commerce regulations, Title 15 of the Code of Federal Regulations (1985 edition), it was reiterated that an embargo was in place on the export or re-export to South Africa and Namibia of arms, munitions, military equipment and materials, and materials and machinery for use in the manufacture and maintenance of

36. Armscor Archives (Pretoria), Top Management, Foreign Relations and Organization, Embargo, 1981 – 1987, File 1/17/1, Volume 5: *Memorandum*, Top Manager, Armscor Security to Secretary, 9 October 1985.

37. Anonymous, US bans arms from SA, *Pretoria News*, 19 October 1985, p. 2; Anonymous, U.S. to block SA arms imports, *The Natal Witness*, 19 October 1985, p. 7; Anonymous, U.S. bans arms imports, *The New York Times*, 19 October 1985, p. 5.

38. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 6, File 11, Study Material: *Document* by the Institute of Strategic Studies, entitled 'Die Wapenverbod teen die RSA', 15 October 1986.

such equipment. A validated export license was required for export or re-export to South Africa and Namibia if the exporter knew or had reason to know that the commodity would be sold to or used by the military and police entities, or used for the servicing of equipment owned, controlled or used by such entities. The commodities included items identified on the Commodity Control List as controlled to any destination for reasons of national security, nuclear non-proliferation, or crime control³⁹, as well as automotive vehicles, watercraft, parts or accessories for it, or tires. Exports of automotive vehicles, watercraft, parts and accessories for it, and tires would be considered favorably on a case by case basis if the export would not contribute significantly to military and police functions. A validated export license was furthermore required for technical data related to the listed commodities. Parts, components, materials or other commodities originating in the US, whether under a general or validated export license, was prohibited from being incorporated outside of the US into foreign-made end products, where there was reason to know that the end products would be sold to or used by or for military and police entities in South Africa and Namibia.⁴⁰

Concerning computers, the list of South Africa Government entities regarded as enforcing the policy of apartheid included: the Departments of Cooperation and Development, Internal Affairs, Community Development, Justice and Manpower Utilization, and administrative bodies of the homelands that carried out similar functions. As a result of enquiries as to which other entities were to be regarded as police and military, the Department of Commerce included the following: Armscor and its subsidiaries Nimrod Atlas Aircraft Corporation, Eloptro (Pty) Ltd., Kentron (Pty) Ltd., Infoplan Ltd., Lyttelton Engineering Works (Pty) Ltd., Naschem (Pty) Ltd., Somchem (Pty) Ltd., Pretoria Metal Pressings (Pty) Ltd., Swartklip Products (Pty) Ltd., Telecast (Pty) Ltd. and Musgrave Manufacturers and Distributors; the Department of Prisons; the National Intelligence Service and the South African Railways Police Force. Certain municipal and provincial law enforcement officers, although separate from the South African Police, were regarded as police entities because they performed the same functions as the police in the US. Other South African law enforcement entities and officials that did not perform the same functions performed by the police in the US, i.e.

39. See Section 4.4, pp. 186; 199-200.

40. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 6, File 11, Study Material: *Document* by the Institute of Strategic Studies, entitled 'Die Wapenverbod teen die RSA', 15 October 1986.

the Departments of Customs and Justice, health inspectors and licensing authorities, were not considered police entities. The South African National Institute of Defense Research was also not considered by the US to be a military entity, because it did research for private as well as military organizations. However, the ban on exports to the South African military and police would apply if the intended exporter had reason to know that the goods or data would be used in a research project for the South African military or police.⁴¹ The rest of the 1985 regulations included those previously stipulated by the Reagan Administration⁴², as well as the new ban on the import of any South African-manufactured weapons-related materials.

In March 1986, the brilliance of the South African arms industry in spite of the arms embargoes was yet again highlighted in an intelligence information summary sent by the US defense attaché in South Africa to the US Defense Intelligence Agency (DIA) in Washington, D.C. Several of Armscor's most recent defense systems were listed. Although they were not yet available on the defense market, the systems were deemed highly sophisticated, and because they were battle tested, also very reliable. Examples included:

- An aircraft cannon called GA1, an exceptionally light and compact 20mm cannon compared with others of the same caliber, with a firing range of 700 rounds per minute. It was therefore ideal for adverse combat situations.
- An automatic 20mm GI2 cannon, which was ideal for use on infantry fighting vehicles as well as helicopters, ships, light vehicles and anti-aircraft defenses.
- A cluster bomb system called the CB470. It was primarily designed for use in a low-level, high speed aircraft attack profile on soft targets such as anti-aircraft and radar installations, fuel storage tanks, refineries and buildings.
- An aircraft-deliverable cluster bomb weighing 120 kg and of a low-drag design. Depending on the target, cluster bombs with different ball sizes could be used to obtain maximum effect. Typical targets included personnel vehicles, aircraft on the ground and unfortified structures.
- An airdrop platform to allow large cargoes to be speedily delivered to remote locations by large cargo aircraft flying under the level of radar detection. The

41. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 6, File 11, Study Material: **Document** by the Institute of Strategic Studies, entitled 'Die Wapenverbod teen die RSA', 15 October 1986.

42. See Chapter 4, Section 4.4, pp. 186 -201.

platform also had a peacetime disaster-relief application and surpassed any other parachute-lowered platform extant. Aircraft that could use the platform included C-130, C-180, C-141 and C5 transport aircraft.⁴³

In May 1986, several events involving South Africa happened in quick succession. The events eventually became the determining factor for the institution of sanctions against South Africa. On 19 May 1986, the SADF raided targets in neighboring countries Zambia, Zimbabwe and Botswana. The Reagan Administration immediately denounced the attacks, followed on 23 May by the expulsion of the South African senior defense attaché Brigadier Alexander Potgieter. In announcing the expulsion, the Department of State made it clear that the South African Government would not be allowed to send a replacement for Brigadier Potgieter. In a further step of protest, the Reagan Administration also recalled its senior defense attaché from South Africa and declared that it trusted that the actions taken would make it clear to the South African Government that the US would not tolerate South African disregard of the sovereignty of its neighbors. But on the evening of 23 May, the US vetoed a United Nations Security Council resolution that called for selective international sanctions to punish South Africa for the raids. The US did declare its willingness to join in a resolution condemning South Africa for the raids, but said that it still believed that the destruction of the South African economy through sanctions was in nobody's interest. Therefore, the US would continue its policy of constructive engagement to persuade the South African Government to change its ways.⁴⁴

The South African Government expressed initial surprise at the expulsion of Brigadier Potgieter, but after the US veto of mandatory economic sanctions in the Security Council it was quickly shrugged off as "*a sign of displeasure, a diplomatic gesture, nothing more ... and not too consequential*"⁴⁵, i.e. largely symbolic. The South African Government said that it was more concerned that the Reagan Administration would vote for mandatory sanctions against South Africa, which would have been a real cause

43. The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02028: **Telegram**: United States Defense Attaché, Pretoria to DIA, Washington, D.C., 20 March 1986.

44. Anonymous, News summary, **The New York Times**, 24 May 1986, p. 25; N. Kempster, U.S. expels senior S. African Attaché, **Los Angeles Times**, 24 May 1986, p. 1; Anonymous, U.S. expels S. African over raids, **Chicago Tribune**, 24 May 1986, p. 1.

45. As quoted in M. Parks, S.A. ousts U.S. attaché in retaliation for similar expulsion, **Los Angeles Times**, 25 May 1986, p. 12.

for concern. It was pointed out that Brigadier Potgieter had only two months left of his tour of duty in the US, and that his expulsion would not affect the military relationship between the US and South Africa. Nonetheless, on 24 May 1986 the South African Government announced that it had informed the Reagan Administration of its intention to expel the senior US defense attaché. The step was dismissed by the Department of State because the attaché had already been recalled when the expulsion of Brigadier Potgieter was announced. Nevertheless, the expulsions brought formal US-South African to its lowest point since US Ambassador Herman Nickel was recalled for consultations in June 1985 after a South African strike against targets in Botswana.⁴⁶

Meanwhile, on 23 May 1986, the South African military and police received yet another blow when the US firm General Motors announced that it was ending its sales of vehicles to those entities, but would continue to sell vehicles to non-military sectors of the South African Government, e.g. the postal service. The step signified a major policy shift in the company's decade-long stance, i.e. that if they refused to sell to the South African military and police, they would not be allowed to sell cars and trucks to civilian agencies and faced the risk of being expelled from the country. Notwithstanding this threat, however, General Motors decided to stop its sales to the South African military and police in order to come into complete compliance with the sanctions imposed by Reagan's Executive Order. US manufactured parts have been banned from vehicles sold to the South African military and police since 1978 and General Motors have been able to meet that criterion. However, new rules set by the US Department of Commerce in late 1985 prohibited the export of any product, components or technology from the US to the South African military or police forces. General Motors believed that this prohibition extended to automotive components developed from US technology, although produced in Europe or South Africa. General Motors discussed the problems they were facing with the South African Government, who agreed to allow General Motors to sell cars and trucks only to non-military sectors of the government, e.g. the postal service, and civilians. General Motors' decision was hailed as a victory by anti-apartheid activists, who had long pressurized General Motors to pull out of South Africa entirely. However, although General Motors acceded that anti-apartheid pressure did play a small role, it emphasized Reagan's Executive Order and their compliance thereto

46. M. Parks, S.A. ousts U.S. attaché in retaliation for similar expulsion, *Los Angeles Times*, 25 May 1986, p. 12; Anonymous, Pretoria, in reply to U.S., intends to oust attaché, *The New York Times*, 24 May 1986, p. 8.

as the main reason for its decision. It also said that it would resist calls to entirely cease its operations in South Africa, as it believed that the South African Government was making progress in dismantling apartheid.⁴⁷

At the end of May 1986, a United Nations-sponsored international seminar on the arms embargo against South Africa was held. The plan was to send the findings of the seminar to a United Nations-sponsored conference on sanctions against South Africa that was to be held in Paris from 16-20 June 1986. The seminar was convened jointly by the United Nations Special Committee Against Apartheid and the Oslo-based World Campaign Against Military and Nuclear Collaboration with South Africa. It focused on circumventions of the mandatory arms embargo and attempts to close any loopholes, as well as issues such as South Africa being a threat to world peace, its military capability and its nuclear collaboration and capabilities. At the conclusion of the seminar, a number of recommendations to strengthen the mandatory arms embargo and to monitor and prevent contravention thereof, were adopted. The recommendations were: all states should end all forms of military collaboration with South Africa, including the exchange of military attachés, as well as the holding of joint exercises and any military exchanges; the voluntary embargo on the importation of South African arms, ammunition and vehicles should be made mandatory; a mandatory ban on all forms of nuclear collaboration with South Africa should be imposed; investment in South African corporations or institutions involved in the manufacture or supply of arms should be prohibited by all states; member states and organizations should report violations of the arms embargo to the United Nations; and the Security Council should impose a mandatory oil embargo against South Africa.⁴⁸

47. Anonymous, GM cuts off S. Africa police, *Chicago Tribune*, 24 May 1986, p. 6; J. Risen, GM halts sales to South Africa police, military, *Los Angeles Times*, 24 May 1986, p. 29; J. Holusha, G.M. cuts its sales to Pretoria, *The New York Times*, 24 May 1986, p. 31; S. Landgren, *Embargo disimplemented: South Africa's military industry*, p. 205.

48. Anonymous, UN seminar on SA arms embargo, *The Cape Times*, 28 May 1986, p. 3; Anonymous, Call to tighten ban on SA arms, *The Cape Times*, 2 June 1986, p. 6.

5.3.2 SOUTH AFRICAN PREPARATIONS FOR A MANDATORY EMBARGO ON THE IMPORT OF SOUTH AFRICAN WEAPONS

In the light of the renewed calls for a mandatory ban on the import of South African weapons and economic sanctions, as mentioned, Armscor launched serious discussions into the advantages and disadvantages of such measures for the South African arms industry. In late June 1986, the executive general manager of Armscor, Fred Bell, stated that *“economic sanctions against South Africa would not be the end of the world, but rather the beginning of life”*⁴⁹, adding that the only way to break out of sanctions was when they were applied. Before that happened, it would be very difficult to decide what to do. According to Bell, South Africa had a so-called ‘supermarket buying policy’ before the institution of the arms embargo. After the embargo was instituted, however, some major contracts were lost, e.g. a French contract to supply corvettes and submarines. Nonetheless, nearly ten years after the institution of the mandatory arms embargo, South Africa was surviving, even without the submarines. According to Bell, after the institution of the mandatory arms embargo, Armscor was forced to decide what was really needed in the weapons field. After this identification process, the next step was to make plans to obtain it or to build it, and Armscor was successful in both. Bell was apparently not too worried about Armscor’s ability to obtain or manufacture the equipment needed. He instead regarded breakthroughs such as beating the US military computer boycott as more important, stating that if South Africa could succeed in that, it would be able to beat any sanction.⁵⁰

In June 1986, Armscor distributed a memorandum on the possible effect of further economic sanctions against South Africa. The memorandum stated that although South Africa has been subjected to a mandatory arms embargo that was still implemented with greater efficiency and enthusiasm, Armscor succeeded in fulfilling the short- and medium-term needs of the South African military forces through the conception, design and development of weapons. In the light of this, by 1986 Armscor concentrated on preparations for long-term needs of more sophisticated and advanced systems.

49. As quoted in Armscor Archives (Pretoria), Committees, Commissions and Control Boards, State Security Board, Committee for Scientific and Technological Action, File 1/15/2/3/1, Volume 4: **Newspaper clipping** entitled ‘Sanctions not end of world, says top man in Armscor’, The Star, 24 June 1986, p. 13.

50. Armscor Archives (Pretoria), Committees, Commissions and Control Boards, State Security Board, Committee for Scientific and Technological Action, File 1/15/2/3/1, Volume 4: **Newspaper clipping** entitled ‘Sanctions not end of world, says top man in Armscor’, The Star, 24 June 1986, p. 13.

However, Armscor acceded that further sanctions could make Armscor's task more difficult, e.g. the request of the United Nations in 1984 that member states refrain from the marketing and buying of South African weaponry. As already mentioned, the US amongst several countries had followed this guideline by making the import of South African military products illegal. Armscor expected that this voluntary embargo would soon be given the same status as Resolution 418 of 1977 by which the mandatory arms embargo against South Africa was instituted. The worrying factor for Armscor was that the consequences of such a step could be far-reaching. The worst consequences were listed as being the cancellation of existing export contracts, which would have had an immediate financial consequence of several hundreds of millions of Rand; the underproduction of most industries as a result of the closure of several production lines; the retrenchment of approximately three thousand skilled workers, resulting in the loss of expertise in especially the areas of heavy caliber weapons and ammunition; higher unit prices of products supplied to the South African military forces; and a major shock for the high morale of the South African arms industry.⁵¹

In addition to the above worst-case scenario, the Armscor memorandum also predicted that an extension of general trade limitations would on the short term negatively influence the import of manufacturing equipment, natural resources and sophisticated electronic components. It was stated that although it would take a while to develop manufacturing industries locally, the problem pertaining to the import of manufacturing equipment would disappear in the medium term. Furthermore, the problem pertaining to the import of natural resources would only remain a problem until surrogate resources were found, or processes were modified to use available resources. In the worst scenario, imports would be maintained through clandestine means, with stored stock being used as a buffer. Thus, in the medium term, this problem would cease to exist. Concerning the import of electronic components, it would be a major limitation on the short term, because of fast technological ageing. For less sophisticated electronic equipment, limitations would be an advantage, as it would make the local industry more independent and sustainable. Local manufacturing of more sophisticated components would however start only on the medium term, and until then clandestine imports would have to take place. Even on the long term, there would be components that could not

51. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: *Armscor Memorandum* on the possible effect on Armscor of further economic sanctions against South Africa, June 1986; J.P. McWilliams, South Africa's military on the move, *Militaria* 18(1), 1988, p. 62.

be manufactured locally, and equipment would therefore have to be developed or redeveloped to function without such components, if it cannot be obtained clandestinely due to the sensitive nature thereof.⁵²

As far as limitations on the import of computer equipment and software were concerned, Armscor was positive that it would have no disruption on the short term, as enough was available to continue for a while. On the medium term, a shortage of components would start to place a limitation on computer capacity, unless the South African electronics sector developed fast enough to supply it, or clandestine imports were possible. However, this limitation would have a major influence on the development of weapons on the long term, because the computer industry was developing at a fast pace and concurrent systems and products would gain the benefit of more sophisticated computer-supported designs, manufacturing and utilization. Lastly, Armscor asserted that extensive limitations of movement and communication would severely limit clandestine accrual and marketing of the South African weapons systems. Nonetheless, Armscor was confident that although further steps to limit the transfer of technology to South Africa seemed very serious, in fact it would have little influence. A most important statement was made in this regard, namely that although the arms embargo against South Africa had made the transfer of technology illegal for quite a few years already, it happened where there was really a need for it. In addition, it was recommended that South Africa act more pro-actively toward persons with foreign passports that were stationed outside of South Africa; make more export credit available; make more use of exchange trade; and be less fastidious about clients.⁵³

A letter from the Chairman of Armscor, P.G. Marais, to the South African Minister of Defense at the time, General Magnus Malan, on 6 July 1986 indicates that Armscor was indeed worried about the exposition of illegal imports and further embargoes. In the letter it was stated that Armscor had increasingly provided weaponry and equipment to South Africa consumers other than the military. Apparently the policy was to try and satisfy the needs of the user. The result was - it often meant that small quantities of weapons had to be imported clandestinely. The problem was that the management of

52. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation: Embargo, 1981–1987, File 1/17/1, Volume 5: *Armscor Memorandum* on the possible effect on Armscor of further economic sanctions against South Africa, June 1986.

53. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: *Armscor Memorandum* on the possible effect on Armscor of further economic sanctions against South Africa, June 1986.

such small loads was susceptible to more risks in the transport channel to South Africa, and there had been several occurrences already where the load was exposed with serious repercussions (as discussed at various instances in this study). Marais was of the opinion that in many cases, especially as far as guns were concerned, there were locally manufactured weapons that were just as efficient as the imported product. Consequently, in the light of the stricter implementation of the arms embargo and the embarrassment and possible losses created by exposition, Marais was of the opinion that the policy on supply to non-government and non-military institutions should be changed in order to give preference to locally manufactured products. The following suggestions was made by him: weapons systems had to be standardized as far as possible with what was being manufactured in South Africa, e.g. R4 rifles and communication equipment; and it would not be expected of Armscor to import items for which an applicable local substitute was available. Also, it was suggested that consumers did not try to import such items by themselves.⁵⁴

Publicly, the South African Government retained a bellicose posture about the possible effect of further sanctions against the country and especially the arms industry. State President P.W. Botha was as defiant as ever, maintaining that if South Africa was forced to go it alone, so be it. In his own words: "*South Africa will not crawl before anyone to prevent it.*"⁵⁵ This point was especially emphasized in July 1986 at the unveiling of a new addition to South Africa's defense arsenal, namely the Cheetah fighter aircraft. The Cheetah was a South African modification of a French Mirage 3 fighter aircraft, and was proudly displayed by the South African Air Force as a match for the Soviet-manufactured MIG-23 aircraft used in Angola. Botha used the development of the Cheetah to especially underscore the importance of technologically superior weapons, and Armscor's ability to develop it. This fact did not go unnoticed in the US, as evidenced by a report in the *New York Times* of 27 July 1986. The report was written by the newspaper's Week in Review Desk, and noted that South Africa's military might was overwhelming in comparison with its weak neighbors, except the Cuban forces in Angola who seemed to be the only challenge. It was again also pointed out, as so many times before, that despite the embargoes on arms supplies to South

54. Armscor Archives (Pretoria), Departmental Committees, Commissions and Statutory Bodies, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: **Letter**, P.G. Marais to General M.A. Malan, 6 July 1981.

55. As quoted in A. Cowell, No Quarter: South Africa's might belies a region's weakness, *The New York Times*, 27 July 1986, p. D1.

Africa, the country succeeded in becoming a net arms exporter with the capability of producing combat helicopters, long-range artillery, missile systems and other weapons. The Cheetah was mentioned as but one example of the potential of the South African arms industry.⁵⁶

5.3.3 THE COMPREHENSIVE ANTI-APARTHEID ACT OF 1986

Meanwhile, the Reagan Administration for the second time in a year faced a Congress ready to take over control of the US foreign policy, as the pressure for a forceful expression of leadership from the presidency mounted. As a result, mixed signals from the Reagan Administration became the order of the day. At the end of June, Crocker criticized the South African Government sharply, followed by a statement a few days later that although sanctions against South Africa had never been ruled out, the key to change in South Africa was to convince the South African Government to let go of its 'siege mentality'. Early in July, Secretary of State George Shultz announced a review of the entire South African policy of the US in order to find a way to end apartheid without damaging the South African economy. Other signals of a change in policy were also contained in various speeches of Reagan Administration officials. On 12 July 1986, the US Ambassador in South Africa, Herman Nickel, was summoned to the US for consultations about the reassessment of policy toward South Africa. In the resultant consultations between various role-players, Reagan was warned that if he did not act decisively, a large majority of the Senate would vote for further sanctions against South Africa. In response, the Reagan Administration announced that Reagan would deliver a speech on South African policy on 22 July 1986.⁵⁷

Many were shocked by what Reagan had to say in his much-anticipated speech, including Crocker and Shultz. Initially, Reagan named apartheid as being the root cause of the disorder in South Africa, saying that it was a rigid system of racial segregation wherein black citizens were being treated as third-class citizens in a nation they had helped to build. In this regard, Reagan said that the US could not maintain cordial relations with a government whose power rested upon the denial of rights to a majority

56. J.P. McWilliams, South Africa's military on the move, *Militaria* 18(1), 1988, p. 62; A. Cowell, No Quarter: South Africa's might belies a region's weakness, *The New York Times*, 27 July 1986, p. D1.

57. R.K. Massie, *Loosing the bonds*, p. 615; Anonymous, U.S. envoy in Washington, *The New York Times*, 13 July 1986, p. 12.

of South Africans, based on race. Thus, according to Reagan, the US people were agreed upon the goal of a free and multiracial South Africa. However, there was deep disagreement about how to reach that goal. Reagan mentioned the arms embargoes against South Africa and the various measures he introduced with his Executive Order as unmistakable signals of US disapproval with apartheid. Nonetheless, a critical juncture was now reached where many in the US Congress as well as in Europe were clamoring for sweeping sanctions against South Africa. Reagan then launched a fierce attack on divestment, again saying that it would harm the very people the US was seeking to help. In this he cited the support of the United Kingdom's Prime Minister, Margaret Thatcher, and South African writer Alan Paton. Thereafter, the ANC was attacked for its program of calculated terror, which meant that in Reagan's eyes they were the ones responsible for the repression, unrest and state of emergency in South Africa. Then Reagan vigorously defended what he called a dramatic change under the leadership of South African President P.W. Botha. According to Massie⁵⁸, the worst part of Reagan's speech was when he failed to acknowledge the black despair in South Africa, instead describing a need for the social, economic and physical security of white South Africans. Lastly, Reagan reiterated that if the US Congress imposed further sanctions, it would destroy the US' flexibility in South Africa, discard its diplomatic leverage and deepen the crises in that country.⁵⁹

On 23 July 1986, Secretary of State Shultz attempted to mollify the US Senate by delivering the message they had hoped Reagan would deliver. He called for the elimination of all apartheid laws, the release of Nelson Mandela, the lifting of the ban on political movements and an end to the state of emergency in South Africa. He criticized both the South African Government's cross-border raids and guerilla strikes by the ANC, but insisted that the ANC was an important part of the political equation in South Africa. Although he initially said that there was no need for additional sanctions against South Africa, he later changed track by saying that he was prepared to approve sanctions. However, in such a case it would be vital to coordinate it with the principle allies of the US, i.e. the industrialized democracies of the European Community and

58. R.K Massie, *Loosing the bonds*, pp. 615-616.

59. National Archives and Records Administration (Washington, D.C.), *Video recording* of President Reagan's South Africa policy speech, 22 July 1986; R. Reagan, Ending Apartheid in South Africa: Address before members of the World Affairs Council and Foreign Policy Association on 22 July 1986, *Department of State Bulletin*, September 1986, pp. 1-5; L.E.S. de Villiers, *US sanctions against South Africa: A historical analysis of the sanctions campaign and its political implications, 1946-1993*, p. 278.

Japan, which together with the US constituted South Africa's major trading and investment partners. According to Shultz, a combined effort by these countries would exert far better pressure on the various South African role-players to start negotiations for the ending of apartheid.⁶⁰

Shultz could not mollify the US Senate, and the call for further sanctions against South Africa became almost deafening. On 12 August 1986, Reagan stirred the emotions even further when he again denounced sanctions. This resulted in the Senate passing a bill that called for increased sanctions against South Africa, with 84 to 14 votes. This bill, together with a stricter bill passed in the House of Representatives in June, painted a clear picture: comprehensive sanctions against South Africa were eminent. However, the sanctions supporters in the US Congress now faced a tricky choice. Because a bill had been passed in both houses of Congress, the normal legislative procedure would be to convene a joint House of Representatives-Senate conference to draft and resubmit a compromise version for a vote in both chambers of Congress. This process could take weeks, meaning that Reagan would be able to "pocket" veto the bill. The reason why this was a possibility was because the US President was obliged to sign a bill within sixty days of passing. However, if less than sixty days remained before the Congress adjourned, the president could kill the bill simply by refusing to sign and waiting for the Congress to adjourn. The only other alternative that the House of Representatives could foresee, was to drop their own bill, accept the Senate version, thereby forcing Reagan to exercise his veto directly, and then press for an override by both houses of Congress. Finally, after intense discussions, the House of Representatives decided to accept the more moderate Senate bill in order to force a direct confrontation with Reagan. In the weeks following the decision, Reagan was implored by Republican Party members to change his mind and take the lead on the sanctions question. Reagan remained unmoved and proceeded only with plans to nominate a black ambassador to South Africa as a symbolic act.⁶¹

Meanwhile, the increased pressure for further sanctions did not go unnoticed in the South African military sphere. In a memorandum from the Armscor Security Division to the Secretary, a summary pertaining to the attitude of the US towards South Africa, its

60. G. Shultz, The U.S. approach to South Africa: Statement before the Senate Foreign Relations Committee on 23 July 1986, *Department of State Bulletin*, September 1986, pp. 5-10.

61. R.K. Massie, *Loosing the bonds*, pp. 617-618.

influence on Armscor activities, a forecast for future developments and general comments was offered. Concerning a summary of the attitude of the US towards South Africa, it was stated that Reagan was still trying hard to maintain his policy of constructive engagement in the midst of a unfavorable general attitude of the US Congress towards South Africa, which was stoked by a very strong anti-apartheid forum. Consequently, the institution of further sanctions seemed likely. As far as military sanctions were concerned, the following were under discussion for improvement or institution: no arms or related equipment were to be allowed for export to South Africa; no arms or other military equipment manufactured in South Africa were to be allowed for import to the US; no computer equipment were to be allowed for export to entities enforcing apartheid in South Africa; and US visas to semi- and state department officials should be refused. Concerning the influence of the worsening US attitude on Armscor activities, the following were listed: bona fide enquiries about South African applications for visas; delaying techniques for the granting of visas; official requests to withdraw visa applications; refusal of visa applications; pressure on providers of arms and related equipment to Armscor and resultant difficulties; and a possible long-term influence of sanctions on investments in South Africa.⁶²

Armscor's forecast in the matter was that the South African issue was a political dispute point in the US that would remain important in future US presidential elections. They maintained the opinion that the general anti-apartheid feeling had been stoked to such a measure that it was unlikely that sanctions would disappear over the short or medium term. In fact, Armscor foresaw that the sanctions would be implemented more effectively and that the technological aspect of an institution like Armscor would be increasingly drawn further into the spotlight. In other words, Armscor believed that the sting of sanctions would become fiercer. On the other hand, it was mentioned that South Africa and Armscor still had friends in the US, and that Armscor operations were therefore still possible. However, it was emphasized that their as well as Armscor's interests had to be better protected.⁶³

62. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: *Armscor Memorandum* on the world attitude towards the South African arms manufacturing industry, 27 October 1986.

63. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation Embargo, 1981–1987, File 1/17/1, Volume 5: *Armscor Memorandum* on the world attitude towards the South African arms manufacturing industry, 27 October 1986.

In addition to the above summary by Armscor's security division, the firm's main management compiled another, more detailed summary on the possible implications of sanctions and opposing measures that could be taken. The first implication listed in this document concerned the procurement of arms. Sanctions could make procurement and payments to providers problematic. Opposing measures included the establishment of an own international bank; the appointment of agents or mediators in high positions in international banks; depositing of funds overseas, thereby building up a reserve; leaving funds earned from arms sales in overseas banks to pay for procurement; and counter trade. Revelation of deals had to be limited only to those who had to know about it, and Armscor involvement had to be obscured through local fronts and own storage spaces for deliveries. Lastly, it was suggested that customs documents that linked imports to Armscor and the SADF had to be done away with without paying extra customs tax.⁶⁴

The second implication listed in the summary pertained to marketing, which Armscor foresaw would become increasingly problematic because of sanctions. Along with this was the possible cancellation of existing contracts for the import of Armscor-manufactured arms, which would in turn lead to the underproduction of industries, loss of income, retrenchment of personnel, loss of expertise and higher unit prices for the SADF. As opposing measures it was suggested that Armscor first strengthen its marketing in Southern Africa. Then, it had to work on keeping and building a reputation of integrity and technical ability, starting with existing clients who had to be pampered. It was also suggested that more use had to be made of middlemen and dummy firms, as well as more credit, exchange trade and counter trade and less fastidiousness as far as clients were concerned. Lastly, products had to be camouflaged, publicity had to be avoided and silence about achievements had to be maintained.⁶⁵

The third implication of possible sanctions included communication, liaison and movement of personnel and products. It was pointed out that shipments in and out of South Africa were fast becoming a problem, especially since South African Airways was increasingly limited with regard to landing rights. Liaison with providers and clients was becoming problematic, especially because South Africa's telephone, post and

64. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Summary** of the possible implications of sanctions, and opposing measures, September 1986.

65. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Summary** of the possible implications of sanctions, and opposing measures, September 1986.

telecommunications systems were restricted. Visas for South Africans were becoming difficult to obtain, over and above the fact that South African passports were becoming unacceptable. The security of Armscor personnel overseas was threatened, and technical publications were withheld from export to South Africa. The following opposing measures were suggested: establish airways' under cover overseas; use seaports in neighboring countries; use foreign airways; use neighboring countries to move in and out of South Africa and travel abroad; encourage certain personnel to emigrate overseas; pamper mediators; use safe importing channels via neighboring states; establish broadband radio connections with overseas offices and agents; use foreign passports; invite providers and clients to South Africa; and clandestine imports.⁶⁶

The fourth implication pertained to technical matters and manufacturing. Several foreign firms that manufactured arms had already withdrawn from South Africa, and it was foreseen that it would be an ongoing process. Furthermore, critical material and components that were still imported were certain to be withheld in future. Hand-in-hand with this was the loss of experts in the field. Opposing measures suggested included finding alternative local manufacturers, which had already been successfully done to an extent; storage and own development of items that were to be withdrawn; the location and development of surrogate firms; the drawing of expert immigrants; and the development of other markets. The last implication listed was financial matters. Foreign loans to Armscor had already become unobtainable, and increasing problems were experienced with payments for imports as well as exports. It was suggested that the South African military forces remain dependent on local sources, and had to simply make do with the limited funds. The suggestions of an own foreign bank, foreign money pool and mediators in overseas banks were also listed here as opposing measures.⁶⁷

Back in the US, Reagan on 4 September 1986 announced an extension of his 1985 Executive Order sanctions in an effort to forestall action by the Congress. He said that he had decided to continue with what he called the national emergency with respect to South Africa for one more year for a number of reasons: the failure of the South

66. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Summary** of the possible implications of sanctions, and opposing measures, September 1986.

67. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Summary** of the possible implications of sanctions, and opposing measures, September 1986.

African Government to take adequate steps to eliminate apartheid, the security practices of the South African Government, including the imposition of a state of emergency, and the persistence of widespread violence that continued to endanger prospects for peaceful change in South Africa and threatened stability in Southern Africa as a whole. He also promised additional measures to deal with the issue after consultations with key allied countries on joint, effective measures to eliminate apartheid and encourage negotiations for peaceful change in South Africa. But once again Reagan's efforts proved futile. A week later, on 11 September 1986, the House of Representatives formally approved the Senate bill, which had by now become known as the Comprehensive Anti-Apartheid Act (CAAA), and sent it on to Reagan. Reagan was left with no choice but to veto the CAAA, which he did on 26 September 1986, saying that it would seriously impede the prospects for a peaceful end to apartheid and the establishment of a free and open society for all in South Africa. On 29 September, the House of Representatives overturned the veto and passed the CAAA with a vote of 313 to 83. It was now up to the Senate to finally decide. Reagan still tried to convince the Senate not to override his veto in a letter dated 29 September 1986. He stated that he was prepared to ban new investment in South Africa, ban bank accounts of the South African Government and its agencies, ban iron and steel from South Africa, require a report on reducing US reliance on strategic minerals from South Africa and require identification of countries that took unfair advantage of the US measures. However, he found himself against a brick wall. On 2 October 1986, the Senate overrode Reagan's veto by voting 78 to 21 in favor of the CAAA, thereby achieving a long-sought goal of congressional sanctions against South Africa.⁶⁸

5.3.3.1 Military-related provisions of the CAAA

In addition to the provisions of Reagan's 1985 Executive Order, the CAAA stipulated the following non-military provisions: an end to all flights between South Africa and the US; a ban on the import of iron, steel, coal, uranium, textiles, agricultural and food products from South Africa; limitations on new US investments in South Africa; a ban

68. R. Reagan, Continuation of South Africa Emergency: Message to the Congress on 4 September 1986, *Department of State Bulletin*, November 1986, p. 19; R. Reagan, Economic sanctions against South Africa: Message to the House of Representatives on 26 September 1986, *Department of State Bulletin*, December 1986, p. 35; Anonymous, Reagan plans new 'strong sanctions' against South Africa, *USIA*, 29 September 1986; R.K. Massie, *Loosing the bonds*, p. 619; L.E.S. de Villiers, *US sanctions against South Africa: A historical analysis of the sanctions campaign and its political implications, 1946-1993*, pp. 288-292.

on the export of petroleum and petroleum products to South Africa; a ban on the import of products from South African Government-controlled firms, with the exception of strategic minerals; a ban on deposits by the South African Government in US banks, with the exception of deposits for consular or diplomatic requirements; an end to all US Government contracts to South African Government entities; an end to double tax agreements with South Africa; a ban on the promotion of tourism to South Africa; and an end to all government support with regard to investment and trade with South Africa. The CAAA also stipulated that the following provisions could be instituted against South Africa if satisfactory progress in the approval of apartheid-ending legislation was not made within twelve months: a ban on the import of diamonds from South Africa; a ban on any South African bank account in the US; and a ban on the import of strategic minerals from South Africa. Furthermore, the US President could not remove sanctions until the South African Government had met several conditions, i.e. the lifting of the state of emergency, the release of Nelson Mandela and all other political prisoners, the unbanning of political parties, the repeal of all apartheid laws, and the start of negotiations between the South African Government, the ANC and others about the future form of government.⁶⁹

Certain sections of the CAAA pertained specifically to military articles and could thus be regarded as a codification of the arms embargo. Section 302 stipulated that no arms, ammunition or military vehicles produced in South Africa, nor any manufacturing data for such articles may be imported into the US. Section 303 stipulated that notwithstanding any other provision or law, no article grown, produced, manufactured by, marketed by or otherwise exported by a parastatal organization of South Africa may be imported into the US. Parastatal organizations referred to a corporation or partnership owned, controlled or subsidized by the South African Government. Exceptions to this rule were strategic minerals for which the US President had certified to Congress were essential for the economy or defense of the US and were unavailable from reliable and

69. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 6, File 11, Study material: *Report on the status of economic punitive measures against South Africa*, Division of Military Information, Department of Foreign Affairs, February 1987; R.K Massie, *Loosing the bonds*, p. 620; A. Cockburn, A loophole in U.S. sanctions against Pretoria, *The New York Times*, 13 October 1986, p. A18.

secure suppliers. Any contracts entered into before 15 August 1986 would be honored until 1 April 1987.⁷⁰

In support of previous regulations during the Reagan Administration, Section 304 of the CAAA prohibited the export of computers, computer software, or goods or technology intended to manufacture or service computers to the following South African entities: the military, police, prison system, national security agencies, Armscor and its subsidiaries, the CSIR's weapons research unit, the administering authorities for controlling the movement of the victims of apartheid, any apartheid enforcing agency, and any local, regional or homelands entity that performed any function of any of the entities already mentioned. Computers, computer software and goods or technology intended for the servicing of computers only, were allowed for export to any entity of the South African Government that was not listed, providing that a system of end-use verification was in effect to ensure that the computers involved would not be used for any function of any of the mentioned entities.⁷¹

Section 307 of the CAAA pertained to prohibitions on nuclear trade with South Africa. It stipulated that notwithstanding any other provision of law, the US Nuclear Regulatory Commission shall not issue any license for export to South Africa of the following: production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any parts, items or substances that the Commission had determined to be especially relevant because of their significance for nuclear explosive purposes. Furthermore, the Secretary of Commerce was forbidden from issuing any license for the export to South Africa of any goods or technology that had been determined by the Nuclear Non-Proliferation Act of 1978 to be of significance for

70. R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations, and loopholes, *The Yale Journal of International Law* 12(1), Winter 1987, p. 136; Armscor Archives (Pretoria): Sanctions and Arms Embargoes, Box 2, File 4, Reports: **Report** on the arms embargo and arms boycott against South Africa, 4 December 1986; Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Research Document** entitled 'Sanctions against South Africa: Current legislative issues', compiled by B.M. Branaman for the Congressional Research Service, 14 August 1986.

71. Armscor Archives (Pretoria): Sanctions and Arms Embargoes, Box 2, File 4, Reports: **Report** on the arms embargo and arms boycott against South Africa, 4 December 1986; Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Research Document** entitled 'Sanctions against South Africa: Current legislative issues', compiled by B.M. Branaman for the Congressional Research Service, 14 August 1986.

nuclear explosive purposes, or judged by the US President to be likely to be diverted to a South African production or utilization facility.⁷²

Sections 317 stipulated that no item contained in the US Munitions List may be exported to South Africa, except those items not covered by United Nations Resolution 418 of 1977 and determined by the US President as being exported solely for commercial purposes and not for use by the South African military and police or other security forces. The US President was however now obligated to prepare and submit a report describing any license pursuant to these items to the Congress every six months. Section 318 followed this in more detail, stipulating that the US President was under obligation to notify the Congress of his intent to allow the export to South Africa of any item that was not covered by Resolution 418. He furthermore had to certify that the item was to be used solely for commercial purposes and not for use by the South African military and police or other security forces. The Congress would have thirty calendar days of continuous session to disapprove any such sale by joint resolution. Section 508 obliged the US President to conduct a study on the extent to which the international embargo on the sale and exports of arms and military technology to South Africa had been violated. The findings of the study had to be submitted to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate within six months after the date of enactment of the CAAA. The report had to include an identification of those countries engaged in the sale or export of arms and military equipment to South Africa, with a view to terminating US military assistance to those countries.⁷³

On 28 November 1986, the United Nations Security Council supported the military regulations of the CAAA by asking all states to implement the arms embargo against South Africa strictly. It reiterated the call for a prohibition on spare parts for aircraft and other military equipment, or assistance in the maintenance of aircraft and other military equipment. States were also urged to ensure that components of items included in the

72. Armscor Archives (Pretoria): Sanctions and Arms Embargoes, Box 3, File 5, Legislation: **CAAA**, 18 October 1986; Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Research Document** entitled 'Sanctions against South Africa: Current legislative issues', compiled by B.M. Branaman for the Congressional Research Service, 14 August 1986.

73. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 2, File 4, Reports: **Report** on the arms embargo and arms boycott against South Africa, 4 December 1986; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations, and loopholes, *The Yale Journal of International Law* 12(1), Winter 1987, p. 136.

embargo did not reach the South Africa military and police through third countries. States were furthermore asked to refrain from any cooperation with South Africa in the nuclear field, especially in cases where it could contribute to the manufacture and development of nuclear weapons or nuclear explosive devices. Member states were also called upon to ban South African arms from international exhibitions, to end all exchanges or visits by government personnel in connection with military or police capabilities, to refrain from any activity that might increase those capabilities, and to include specific provisions for penalties to deter violations of the arms embargo in their domestic legislation. The Security Council then acted by summarizing the request in Resolution 591 (1986)⁷⁴, which was supported by the US and adopted by consensus.⁷⁵

5.3.3.2 The CAAA and the South African-Israeli alliance

As expected by Armscor, the sanctions instituted through the CAAA had a crippling effect, although one wonders whether it was fully expected what would happen next as a direct consequence of the CAAA, namely the decision by South African ally Israel to end all arms sales to South Africa. The CAAA implied that the US Congress would move to cut all aid to states selling arms or military technology to South Africa. This fact worried Israel, who during the foregoing fifteen years in violation of the arms embargo had supplied South Africa with light weapons, communications and electronic equipment, and a license to produce several major weapons systems, including Sa'ar-Class missile boats, Gabriel sea-to-sea missiles and major components of its Kfir fighter-bomber aircraft. It also helped South Africa to develop a KC-135-type surveillance aircraft and air-to-air refueling abilities for the South African Air Force. Nuclear cooperation was also not ruled out. Initially, Israel decided to maintain the status quo in its dealings with South Africa, as it was not entirely clear to what extent the CAAA covered the sale to South Africa of technological know-how and semi-military equipment as distinct from weaponry. It was also unclear how Reagan's report on the

74. See Appendix IV for a full transcript of Resolution 591 (1986).

75. Anonymous, Don't sell to SA, *The New Nation*, 10 December 1986, p. 4; United Nations, Strict implementation of 1977 arms embargo against South Africa asked by Council, *UN Chronicle* 24, February 1987, p. 46; Anonymous, Embargo, *Leadership SA* 7(3), 1988, p. 137.

arms embargo to the US Congress would deal with this issue, nor whether the Congress would regard it as a blatant violation of the US arms embargo against South Africa.⁷⁶

By late January 1987, under pressure from the US Congress and American Jews, the Israeli Government agreed to a reassessment of its arms and trade relationship with South Africa. It was a difficult decision, as Israel reportedly earned a large amount of money from its arms and technology exports to South Africa. Apparently, the livelihood of thousands of Israeli workers depended to some degree on the ongoing relationship with South Africa. Another worrying factor for the Israelis was the possible effect of a withdrawal of assistance to the 120,000 strong Jewish community in South Africa, who could become the target of anti-Semitism among white South Africans as a result of the action. On the other hand, the Israelis were dependent on US military assistance to the value of \$1,8 billion per year. While few expected that the US Congress would completely cut off this assistance, Israeli officials feared that the political backlash could nonetheless be very damaging. Consequently, the Israeli Government hoped that both the Reagan Administration and the US Congress would stop short of any public condemnation of Israel based on the assurances that it would gradually end its military relationship with South Africa. However, according to the Israeli Government, this would take at least four years because of contracts that had to be honored. Nonetheless, the step was widely regarded in the US as evidence that the CAAA was an important decision. It was also praised as a further demonstration of the value of the CAAA.⁷⁷

Initially, the Israeli Government only agreed to a gradual end to its military relationship with South Africa. Nothing was said about the signing of new contracts, because Israeli officials were hoping of somehow finessing the US Congress into overlooking the Israeli relationship with South Africa. However, an espionage scandal involving an American

76. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02206: **Telegram**: United States Embassy, Tel Aviv to Secretary of State, 28 January 1987; T.L. Friedman, Israeli's reassess supplying arms to South Africa, *The New York Times*, 29 January 1987, p. A1; B.M. Joseph, *Besieged Bedfellows: Israel and the land of Apartheid*, p. 134.

77. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02206: **Telegram**: United States Embassy, Tel Aviv to Secretary of State, 28 January 1987; T.L. Friedman, Israeli's reassess supplying arms to South Africa, *The New York Times*, 29 January 1987, p. A1; D. Fisher, Israel to end arms sales to S. Africa, *Los Angeles Times*, 12 February 2004, p. 1; Anonymous, Arms, Israel and South Africa (Editorial), *Los Angeles Times*, 19 February 1987, Section II, p. 4; D. Fisher, Israel needs time on S. Africa: 4 years required to wind up contracts, paper says, *Los Angeles Times*, 21 February 1987, p. 8.

citizen spying for Israel, Jonathan Pollard, shattered this hope. Pollard was sentenced to life in prison, leading the Israeli Government to a realization that they could not afford another embarrassing confrontation with the US. On 19 March 1987 the Israeli Cabinet announced that it had decided not to sign any new military sales contracts with South Africa. In addition, they would also limit Israel's cultural, official and tourist relations with South Africa. However, the decision did not have any immediate practical effect, as it was stated that the Israeli leadership was allowed two months to work out the specifics of the new policy. This could be regarded as a clever strategic step by Israel, who had never made the exact details of its dealings with South Africa public. It gave the country enough time to assess the reaction to the report on the implementation of the arms embargo that the Reagan Administration had to deliver to the US Congress by 1 April 1987. The Israeli Government expected that it would be specifically listed as one of the countries that sold military equipment to South Africa in spite of saying that it adhered to the embargo. Furthermore, senior Israeli officials bluntly indicated after the Cabinet discussion that the plan was directed first and foremost at the US Congress and not South Africa. Indeed, in devising it, a delicate balance of interests was sought, i.e. the minimum amount of Israeli sanctions on South Africa, with the minimum negative effect on Israel's military exports to South Africa, in return for the maximum impact on the US Congress and Jews residing in the US.⁷⁸

The South African Government through Foreign Minister Pik Botha blamed the US for Israel's decision, saying that it was a direct result of pressure by the US, although it did not stretch further than those adopted by European countries. This statement by Botha was regarded by political commentators as an effort to limit the potential damage to the close relationship between Israel and South Africa and to acknowledge that Israel had taken the minimum steps needed to appease the US Congress. The South African press in turn also supported Israel, uniformly stating that Israel was being forced to impose sanctions against South Africa to minimize the possible impact of the awaited Reagan report on Israel's vital military relationship with the US. Thus, the US was to be blamed for the Israeli sanctions against South Africa, not Israel itself. Some editorials even went as far as saying that the trouble with Israel was that it was so dependent on US aid,

78. T.L. Friedman, Israel will curb arms for Pretoria, *The New York Times*, 19 March 1987, p. A1; J. Broder, Israel places sanctions on S. Africa, *Chicago Tribune*, 20 March 1987, p. 5; D. Fisher, Israel to end defense pacts with S. Africa, cut back other ties, *Los Angeles Times*, 20 March 1987, p. 10; T.L. Friedman, Israel parliament hears plan on Pretoria, *The New York Times*, 20 March 1987, p. A3; B.M. Joseph, *Besieged Bedfellows: Israel and the land of Apartheid*, p. 136.

particularly military aid, that it might have been tempted to sacrifice part of its military trade and links with South Africa to ensure that the US did not reduce its military aid to Israel. *The Star* was of the opinion that Israel had been handed a knife by the US Congress and told to stab a friend. The South African Broadcasting Corporation (SABC) in turn said that one sad aspect of the whole issue was an international blackmail role, termed 'the bully boy techniques', that the US Congress had resorted to in its vendetta against South Africa.⁷⁹

5.3.3.3 The Reagan Administration's Arms Embargo Violation Report

On 2 April 1987, the Reagan Administration delivered its report on violations of the arms embargo against South Africa, in accordance with Section 508 of the CAAA of 1986. The report was compiled by the Department of State in accordance to an Executive Order by Reagan directing the Secretary of State to implement the requirements of Section 506. The cooperation and clearance of the entire US intelligence community was obtained in order to make the report as accurate as possible.⁸⁰

The report started with a summary of the 1977 mandatory arms embargo against South Africa instituted through United Nations Security Council Resolution 418. It detailed the reasons why it was instituted and why it was deemed mandatory⁸¹. Then it was pointed out that mandatory arms embargo was applicable to direct transfers by Governments as well as private transfers of arms to South Africa. States were required to take whatever means they deemed necessary to prohibit commercial exports of arms to South Africa. In a separate paragraph, the Security Council called upon States to review all existing contractual arrangements and licenses involving South Africa that related to the manufacture and maintenance of arms, ammunition and military equipment and vehicles,

79. J.D. Battersby, Pretoria blames U.S. for Israeli move, *The New York Times*, 20 March 1987, p. A3; Anonymous, S. Africa blames U.S. for Israeli trade curbs, *Los Angeles Times*, 21 March 1987, p. 11; J.D. Battersby, South Africa blames U.S. for Israeli decision, *The New York Times*, 21 March 1987, p. 28; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02272: **Telegram**: United States Embassy, Pretoria to Secretary of State, 1 April 1987; Anonymous, S. Africa hits U.S. as 'bully', *Chicago Tribune*, 21 March 1987, p. 3.

80. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02273: **Press guidance** by the Department of State on the report to Congress on violations of the arms embargo against South Africa, 1 April 2004; National Archives and Records Administration (Washington, D.C.), Federal Register, Online document e12571, **Executive Order** 12571 – Implementation of the Comprehensive Anti-Apartheid Act, 27 October 1986.

81. As discussed in Chapter 2.

with the view of ending all such arrangements. However, unlike other provisions referred to in Resolution 418, this particular provision did not constitute a binding decision of the Security Council, i.e. it was not mandatory. It was a limited exception that entailed only pre-existing arrangements relating to the manufacture and maintenance of arms, ammunition and military equipment. It did not authorize deliveries of arms under pre-existing contracts. The interpretation of the whole Resolution 418 was shared by the US, who also maintained the position that new arrangements relating to the manufacture and maintenance of arms, ammunition and military equipment, as well as extensions or renewals of pre-existing agreements upon their termination, were also subject to the mandatory ban. It was pointed out that the US had fully adhered to the mandatory arms embargo and had authorized no exceptions with respect to any prohibited sale or export. In fact, it also prohibited any exports to the South African military and police, although not required by Resolution 418. Lastly it was brought to the attention of the Congress that the US was not required under the United Nations arms embargo or US law to monitor other states' compliance with the embargo.⁸²

The key judgments of the report were broad. It was found that South Africa had reacted to the international arms embargo by developing a large and sophisticated indigenous arms industry. It imported weapon systems and subsystems when it could not manufacture it or could not arrange a license-manufacturing arrangement. Cost also played a role, i.e. items were imported when it was found that the cost of manufacturing would be extremely inefficient compared to the cost of available imports. Concerning South African defense industries, it was alleged that the clear preference was to maintain overall control of items manufactured in South Africa and to limit foreign involvement to technical advice and the provision of subsystems, either already complete or for licensed manufacture. As far as the major weapons systems in the South African military inventory were concerned, they were acquired prior to the 1977 arms embargo. These included French-designed armored vehicles, Israeli-designed patrol boats, and Italian and French-designed combat aircraft. Since the embargo was

82. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Report** by the Reagan Administration on the violation of the international arms embargo on the sale and export of military articles to South Africa, 2 April 1987.

instituted, many of these systems were maintained or upgraded with the assistance of the original manufacturer.⁸³

The report stated that the South African imports had become small and difficult to detect since the arms embargo was instituted. Because of this, as well as many of the items being subsystems or under licensed manufacture, the Reagan Administration could not estimate the volume or Dollar value of South African military imports. This meant that they also could not assign a percentage of the South African military import market to an individual nation. Furthermore, due to the nature of the South African imports and the excellent concealment efforts of both importers and exporters, intelligence on non-compliance with the arms embargo by an individual nation was difficult to obtain. As a result, the Reagan Administration alleged, they could only obtain a partial incomplete and somewhat random picture of arms embargo violations by individual countries. Adding to this was the difficulty to substantiate through reliable intelligence many of the allegations that were being made publicly.⁸⁴

Given the above difficulties, the Reagan Administration nonetheless believed that South Africa obtained weapons systems and subsystems from a wide variety of sources worldwide. Three notable patterns in this worldwide supply network could be identified. First, they believed that companies in France, Italy and Israel had continually been involved in the maintenance and upgrade of major systems provided before the 1977 embargo. These were probably done with the knowledge of the various governments. Secondly, Israel appeared to have sold military systems and subsystems and provided technical assistance to South Africa on a regular basis. It had also made available military personnel to instruct South Africans in conventional military tactics and anti-terrorism procedures. Despite the fact that the Israeli Government did not require end-use certificates and some cutouts may have occurred, the Reagan Administration believed that the Israeli Government was aware of most, if not all of the military trade with South Africa. No evidence could be found that Israel had transferred US-manufactured or licensed end-items to South Africa, and in the absence of an inspection of Israeli-made or licensed weapons in South African hands, it could not be said with

83. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Report** by the Reagan Administration on the violation of the international arms embargo on the sale and export of military articles to South Africa, 2 April 1987.

84. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Report** by the Reagan Administration on the violation of the international arms embargo on the sale and export of military articles to South Africa, 2 April 1987.

certainty whether Israel had reverse-engineered US weapons or transferred US technology into weapons that were similar to US systems, and transferred that to South Africa. Thirdly, companies in Germany, the United Kingdom, the Netherlands and Switzerland had on occasion violated the arms embargo without government permission, or had engaged in sales to South Africa of grey area equipment, i.e. items that could have both civilian and military applications.⁸⁵

After the report was delivered to Congress, the Reagan Administration was asked for comments on the Israel-South African military relationship. The answer was that the Reagan Administration felt that Israel was well aware of the US' concern about its military ties with South Africa. Therefore, the Reagan Administration welcomed the Israeli Cabinet decision of 18 March as well as the steps that it had announced as an authoritative statement of Israeli policy. The next question was whether the report would affect the US military assistance to Israel. The answer was that although the CAAA of 1986 required that any country violating the arms embargo be identified and that the US president should consider the termination of military assistance to such countries, the termination was not automatic and would require a joint resolution of the US Congress. As far as Israel was concerned, military assistance to Israel was provided as part of the US' commitment to help maintain Israel's security. At that moment, it was deemed paramount and therefore the Reagan Administration felt that the findings of the report did not provide a basis for reducing the level of assistance to Israel. In the US Congress, Jewish and black members were involved in intense and sometimes harsh discussions on how to react to the report. Several black congressmen felt that Israel should be deprived of its foreign aid, but eventually it was agreed that the cutting of US aid to Israel was not a realistic proposal – a statement that certainly caused a sigh of relief in both Israel and South Africa.⁸⁶

85. Armscor Archives (Pretoria), Main Management: Foreign Affairs and Organisation, Embargo, 1981–1987, File 1/17/1, Volume 5: **Report** by the Reagan Administration on the violation of the international arms embargo on the sale and export of military articles to South Africa, 2 April 1987; N.A. Lewis, Congress gets report on Israeli military aid to South Africa, *The New York Times*, 3 April 1987, p. A3; N. Kempster, U.S. cites Israeli violations of S. African weapons ban, *Los Angeles Times*, 3 April 1987, p. 23; Anonymous, Arms dealers for South Africa (Editorial), *Los Angeles Times*, 10 April 1987, p. 4.

86. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02273: **Press guidance** by the Department of State on the report to Congress on violations of the arms embargo against South Africa, 1 April 2004; N.A. Lewis, Congress gets report on Israeli military aid to South Africa, *The New York Times*, 3 April 1987, p. A3.

The other countries mentioned in the report, i.e. France, the United Kingdom, Italy, Switzerland, Germany and the Netherlands all denied that they had permitted arms sales to South Africa. The Reagan Administration accepted and supported this by stating in the report that many of the arms transfers discussed were commercial transactions that were not sanctioned by the various governments, although also not actively opposed. Especially in the case of the United Kingdom, the Reagan Administration held the opinion that its government was diligent in enforcing the arms embargo, saying that it knew of only a very few incidents of military items going from the United Kingdom to South Africa. The majority of these items fell in the grey area category. In answer to a question whether the Reagan Administration was upset that many of its European allies were listed as violators of the arms embargo, it said that it was naturally concerned by violations of the arms embargo and would continue to express its concern. Nonetheless, the issue of these countries' compliance or non-compliance with the arms embargo was not such a sensitive issue as was the case with Israel, as Israel was the only country receiving military equipment and assistance from the US. Furthermore, Israel was the only listed country that had a government-to-government agreement with South Africa regarding military assistance in any form. Lastly, the Reagan Administration pointed out that the report did not specifically cover US arms sales to South Africa because the CAAA of 1986 only called for a report on the actions of other countries. It was nonetheless emphasized that the US had a very good track record of enforcing the embargo and had initiated prosecutions whenever evidence was found of US companies or individuals trying to sell arms to South Africa.⁸⁷

5.3.3.4 The implementation of the CAAA of 1986

After the Congress override of Reagan's veto of the CAAA, and the subsequent institution of the Act, the Reagan Administration had no choice but to adhere to and implement the CAAA of 1986. The first obligation, as discussed, had been to supply the US Congress with a report on violations of the arms embargo by other countries. The next step involved implementation of the Act. To this effect, the Reagan Administration published a National Security Decision on US policy toward South Africa in May 1987.

87. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02273: *Press guidance* by the Department of State on the report to Congress on violations of the arms embargo against South Africa, 1 April 2004; N.A. Lewis, Congress gets report on Israeli military aid to South Africa, *The New York Times*, 3 April 1987, p. A3; N. Kempster, U.S. cites Israeli violations of S. African weapons ban, *Los Angeles Times*, 3 April 1987, p. 23.

In the document, it was noted that the imposition of sanctions by the US and subsequently by other members of the international community had strengthened the South African Government's determination to resist international pressure. It had also resulted in a sharp deterioration of US-South African relations. On the other hand, the sanctions were perceived by the African states as an affirmation of US commitment to South Africa's disenfranchised citizens.⁸⁸

In the light of the above developments, the Reagan Administration reviewed its policy objectives and strategy vis-à-vis South Africa. Several strategy points to be pursued were listed, among which the non-vindictive implementation of the provisions of the CAAA of 1986. However, it was clearly stated that new legislative and mandatory sanctions against South Africa would be opposed – an important point indicating that the Reagan Administration was still supportive of South Africa. Another strategy point related to this study was continued non-proliferation efforts aimed at persuading South Africa to adhere to the Nuclear Non-proliferation Treaty, or otherwise a renouncement of nuclear explosive acquisition and acceptance of IAEA safeguards on all its nuclear activities. It was emphasized that such efforts also had to seek to maintain South African membership of the IAEA, stress effective implementation of IAEA safeguards in South Africa, and encourage IAEA/South African Government negotiations on safeguarding additional nuclear facilities in South Africa.⁸⁹

On 16 June 1987, Chester Crocker testified on the implementation of the CAAA of 1986 by the Department of State before the Subcommittee on Africa and the Committee on Foreign Affairs in the US House of Representatives. Section 317 of the Act prohibited exports to South Africa of items on the Munitions List subject to the 1977 United Nations arms embargo, whereas Section 318 required detailed Congressional notification of Presidential intent to export Munitions List items not covered by the arms embargo for non-military purposes to South Africa. Crocker was asked whether any such notification had been made to the US Congress or whether such notification was being considered by the Department of State. He was furthermore asked whether the Department of State considered the prohibitions against military exports in Sections 317 and 318 as covering US covert operations. In other words,

88. Reagan Presidential Library (Simi Valley), File NLS-NSC-NSDD-273: *National Security Decision*, United States policy toward South Africa, 7 May 1987.

89. Reagan Presidential Library (Simi Valley), File NLS-NSC-NSDD-273: *National Security Decision*, United States policy toward South Africa, 7 May 1987.

would it be a violation of the law or policy for a US intelligence agency to export Munitions List items to South Africa for use by US-supplied insurgents in Angola or Mozambique?⁹⁰

In answer to the above questions, Crocker said no such notifications had been made. Exports of Munitions List items were controlled primarily by the Department of State pursuant to Section 38 of the Arms Export Control Act. This provision together with other statutory enactments recognized that certain transfers were controlled by the US President pursuant to other legal authorities, including special intelligence findings. As example, Crocker quoted Section 602 of the US Intelligence Authorization Act of 27 October 1986, which instituted special procedures for transfers of defense articles and defense services in the context of intelligence activities. In answer to the question on whether Sections 317 and 318 of the CAAA of 1986 would be applicable as a matter of law to any covert transshipment of arms through South Africa, Crocker said it would be a question involving Congressional intent. However, the legislative history of these provisions was silent on whether they were intended to affect covert activities. In any event, arms transfers in any covert context were subject to special Congressional notification procedures. The US Congress would therefore be aware of any activities in this area. Furthermore, any hypothetical transaction involving South Africa would also be subject to the requirements of the 1977 United Nations arms embargo, the restriction of intelligence cooperation with South Africa contained in Section 107 of the Intelligence Authorization Act of October 1986, and Section 322 of the CAAA of 1986.⁹¹

According to the Department of State report to the US Congress on violations of the arms embargo, a number of friendly countries or their citizens were involved in the arms trade to South Africa. Crocker was asked whether organizational structures were created or whether specific instructions were given to US embassies, the intelligence community and other US personnel to curb arms sales to South Africa. Crocker answered that the US Government's effort to curb arms flows to South Africa had involved essentially informal processes, and US diplomats and other personnel were

90. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02354: *Testimony* by Chester Crocker before the Subcommittee on Africa and the Committee on Foreign Affairs in the United States House of Representatives, 16 July 1987.

91. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02354: *Testimony* by Chester Crocker before the Subcommittee on Africa and the Committee on Foreign Affairs in the United States House of Representatives, 16 July 1987.

fully aware of the US' interest in curbing potential arms flows to South Africa. Furthermore, cooperative efforts with friendly countries to pursue allegations of arms violations, were instigated. But, according to Crocker, the US' source of influence had been its power of persuasion, as it did not have the authority to compel other countries to end the trading of arms with a third country, even where a mandatory United Nations arms embargo had been imposed, as in the case of South Africa.⁹²

Certain questions pertained to Israel's decision not to sign new military contracts with South Africa and to let existing contracts expire. Firstly, Crocker was asked whether he understood that the decision applied not only to equipment sales but also technical assistance, and whether he made enquiries in this regard. Crocker answered affirmative to both. Secondly, he was asked whether it was his understanding that Israeli technical assistance was all provided under contract, or was a certain amount provided less formally, e.g. through visits of delegations or Israeli investments in South African industries that were military-related? Crocker answered that both ways applied. Lastly, Crocker was referred to the report that stated that in the absence of an inspection of Israeli-made or licensed weapons in South African hands, the US could not say whether Israel had reverse-engineered US weapons or transferred US technology into Israeli weapons that were similar to US weapons. He was then asked whether the US was trying other means by which to obtain information of this issue. Crocker had a short and sweet answer to this: the Department of State could not specify such information on an unclassified level.⁹³

5.4 ALLEGED AND ACTUAL VIOLATIONS OF THE ARMS EMBARGO DURING THE SECOND TERM OF THE REAGAN ADMINISTRATION

In the months following the institution of the CAAA of 1986, there had been reports that US arms were shipped to South Africa from points in the US, Europe and Central America. Crocker was also questioned about these reports during his testimony before the Subcommittee on Africa and the Committee on Foreign Affairs in the US House of Representatives. He did not deny the reports, but said that the Department of State had

92. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02354: *Testimony* by Chester Crocker before the Subcommittee on Africa and the Committee on Foreign Affairs in the United States House of Representatives, 16 July 1987.

93. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02354: *Testimony* by Chester Crocker before the Subcommittee on Africa and the Committee on Foreign Affairs in the United States House of Representatives, 16 July 1987.

investigated the allegations and could not acquire evidence that such shipments actually occurred in 1986 and early 1987. Also, the report on the arms embargo delivered to the US Congress in the beginning of April 1987 contained all available information on exports from third countries. Nonetheless, Crocker acceded that attempts to export defense articles and services to South Africa had been made, which would be in violation of both the Arms Export Control Act and the CAAA of 1986. He referred to two indictments for attempts to violate these acts by exporting defense articles to South Africa. However, according to Crocker, investigations into the alleged violations were not yet finished, and therefore he could not comment further on the issue.⁹⁴

In 1986, the South African White Paper on Defense and Armaments painted the following picture of effective implementation of the arms embargo: "*The arms embargo, as contained in Resolution 418 of the Security Council of the UN, was implemented more than eight years ago and is still being applied with great enthusiasm and increasing effectiveness.*"⁹⁵ This statement was spot-on as far as the US was concerned, because evidence for very few violations during the second term of the Reagan Administration could be found, indicating that the arms embargo regulations as well as the regulations contained in Reagan's Executive Order of 1985 and the CAAA of 1986 were more stringently applied.

5.4.1 US-SOUTH AFRICAN NUCLEAR RELATIONS

After the early 1984 announcement by the Atomic Energy Corporation of South Africa that the country would conduct and administer its external nuclear affairs in a manner that was in line with the spirit, principles and goals of the Nuclear Non-proliferation Treaty and the nuclear supplier's group guidelines, the Reagan Administration remained hopeful that South Africa would sign the Nuclear Non-proliferation Treaty. In September 1987, the South African Government surprised many with an announcement that it was prepared to start talks with the world's nuclear powers on the possibility of signing the treaty. While some officials of the IAEA doubted the move as being an effort to stave off a Nigerian-led effort to suspend South Africa from the Agency, others regarded it as

94. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02354: *Testimony* by Chester Crocker before the Subcommittee on Africa and the Committee on Foreign Affairs in the United States House of Representatives, 16 July 1987.

95. As quoted in Republic of South Africa, Department of Defense, *White Paper on Defense and Armaments*, 1986, paragraph 154.

a larger plan of concessions to win Western support for a negotiated racial settlement in South Africa that would limit the influence of exiled nonwhite movements. The US in particular felt that the expulsion effort by Nigeria was more focused on the South African Government's apartheid policies than on its nuclear policies. A day after the announcement, the US Secretary of Energy stated that South Africa would not be expelled from the IAEA, because of the willingness it showed to sign a treaty intended to curb the spread of nuclear weapons. Also, the US contended that the IAEA's important work on nuclear safety issues required all countries with some nuclear capacity should belong to it. The Secretary stated that US and Soviet delegates to the IAEA had come to an agreement on the South African issue, and therefore the Nigerian-led effort to expel South Africa from the agency would thus lack the support of the Soviet nations and consequently enough votes to pass the expulsion.⁹⁶

In July 1988, a new storm burst loose around South Africa's presumed ability to manufacture nuclear weapons, after an article to this end appeared in the US magazine *Newsweek*. In the article, South Africa was identified as one of four new members of the so-called 'nuclear club'. The nuclear club was a term used for countries that had nuclear weapons and intended to employ it. It was alleged that South Africa had up to twenty nuclear devices. Circumstantial evidence about the 1977 and 1979 presumed nuclear construction and tests⁹⁷ by South Africa and the research being done at Valindaba and Pelindaba was provided, as well as quotes by 'authoritative sources' who said that they were convinced that South Africa did not only had the capability to produce nuclear weapons, but had also already built up an arsenal. According to *Newsweek*, by 1988 there was no longer a need to test nuclear weapons by means of tests like the one picked up by the US Vela satellite in 1977. Instead, these tests could now be done in simulated laboratory conditions with the help of new technical aids like a sophisticated flash X-ray machine. This machine took a high-speed picture of the conventional detonation that triggered the atomic explosion, and then told the scientists if they had correctly designed the trigger, which was the most critical part of the nuclear construction. South Africa was thought to have bought the testing equipment

96. J.D. Battersby, South Africa says it may soon sign atomic agreement, *The New York Times*, 22 September 1987, p. A1; Anonymous, Pretoria to stay in atom agency, *The New York Times*, 23 September 1987, p. A9; Anonymous, The one club that may admit South Africa, *The New York Times*, 27 September 1987, p. D3; P. Lewis, Pretoria willing to discuss atom ban, *The New York Times*, 15 July 1988, p. A3.

97. See Section 3.5.1.4, pp. 143-144.

from Sweden. The allegation was fiercely denied by the South African Department of Foreign Affairs, while Armscor refused to comment.⁹⁸

In the midst of the above storm, South Africa requested talks with the US, Britain and the Soviet Union on its renouncement of nuclear weapons and opening all its nuclear establishments for international officials. Four South African establishments, i.e. the two reactors at the Koeberg power station, the US supplied Safari research reactor at Pelindaba and a research installation at the same premises, were already inspected by the IAEA. However, a small pilot uranium enrichment plant and a larger commercial plant that was being build, had not yet been inspected. The South African Government acceded that these plants had the ability to enrich uranium up to high levels, but denied that it was used to produce nuclear weapons. Signature of the Nuclear Non-Proliferation Treaty would mean that South Africa had to open up these plants to inspectors from the IAEA and to place under safeguard any stocks of enriched uranium that it may have acquired. The step of requesting talks was therefore widely regarded as an effort on the part of South Africa to avoid suspension by the IAEA. Although the US could buffer such a call for suspension in 1987, it was almost certain that South Africa would be expelled by the IAEA during its next meeting in September 1988, because of its failure to sign the Nuclear Non-proliferation Treaty.⁹⁹

At a news conference after the talks on 14 August 1988, South African Foreign Minister Pik Botha acceded that South Africa had the capability to produce a nuclear bomb should it want to do so. He however refused to say anything more when asked whether the country already had nuclear weapons. He further said that South Africa would not be rushed into signing the Nuclear Non-Proliferation Treaty. It first wanted to be sure that the provisions of the treaty would be applied to South Africa in a nondiscriminatory manner. Only when it was satisfied that there is something in it for the country, would the South African Government consider signing the treaty. In September 1988, the US, Britain and the Soviet Union joined in an appeal to the South African Government to sign the Nuclear Non-proliferation Treaty in the best interest of all countries of the Southern Africa region and the world as a whole. Again, many

98. J. MacLennan, South Africa has nuclear weapons, says magazine, *Sunday Tribune*, 10 July 1988, p. 8.

99. P. Lewis, Pretoria willing to discuss atom ban, *The New York Times*, 15 July 1988, p. A3.

believed that the appeal was an effort to keep a bid to expel South Africa from the IAEA from passing. A two-thirds majority was needed for such a step.¹⁰⁰

On 22 September 1988, the Reagan Administration yet again succeeded in an effort to protect South Africa from further pressure when it vetoed an African resolution in the IAEA to expel South Africa from the Agency. Britain and the Soviet Union backed the US. Despite objections to the South African policy of apartheid, the US felt that peace was best served by keeping South Africa in the IAEA and encouraging it to refrain from ever developing nuclear weapons of its own by adhering to the Nuclear Non-proliferation Treaty. At the same time, however, the US reiterated its determination to press South Africa to renounce nuclear weapons by signing the treaty and opening up all its nuclear installations to inspection to ensure that it was not being used for military purposes.¹⁰¹ The matter remained unresolved for the duration of the Reagan Administration.

5.4.2 SMUGGLING CASES

5.4.2.1 The Posey and Bush case

In February 1987, Edward James Bush, a private consultant for US firm Newport Aeronautical sales, which specialized in the selling of non-classified military data to prospective government contractors, was arrested at the Los Angeles International Airport for carrying boxes of technical manuals for C-130 and fighter-bomber aircraft. More specifically, the manuals were for generators used with US GE J-79 jet engines, which was designed for use in the US F-4, F-26 and F-104 fighter aircraft, and for the repair and maintenance of C-130 aircraft. Bush tried to board a flight to Miami with connections to Buenos Aires in Argentina, but also had airline tickets to Johannesburg, South Africa in his possession. The authorities arrested Bush after they concluded that he was on his way to deliver the manuals to South Africa, despite his claims that he was on his way to meet with representatives of the Argentine air force to discuss an upcoming contract. Export of manuals such as those that Bush were carrying, was in violation of the US arms embargo and more specifically the US Arms Export Control Act. The Act prohibited any published material with possible military application from

100. Anonymous, Pretoria says it can build A-arms, *The New York Times*, 14 August 1988, p. 16; Anonymous, Superpowers urge SA to sign nuke treaty, *The Citizen*, 22 September 1988, p. 5.

101. P. Lewis, U.S. averts atom agency's ouster of Pretoria, *The New York Times*, 22 September 1988, p. A7.

export to South Africa. The penalty if this regulation was violated was a \$1 million fine and a maximum of ten years in prison.¹⁰²

After the arrest of Bush, the US Federal Bureau of Investigation (FBI) and Customs Service agents raided the offices and house of the president of Newport Aeronautical Sales, George M Posey III. Posey claimed that Bush was not an employee of the firm, but declined to say whether he had any relationship with Bush. He furthermore denied that he had ever exported anything that was export-controlled by the US Government without proper documentation. However, according to Posey's mother, who was also a principal of Newport Aeronautical Sales, although no technical manuals had been sold directly to South Africa, it was possible that manuals sold to Israel by the firm could have ended up in South Africa in the light of the close military ties between the two countries. She also acceded that South African Government representatives approached George Posey while he was on honeymoon in Kenya in 1984, but said he declined cooperation with them. Posey's brother, Robert Posey, who was also a member of the firm, denied any exports to South Africa, but said that unlike military hardware, technical data did not require an end-user certificate, meaning that it may be re-exported to a third country and South Africa thus could have obtained some of Newport's manuals.¹⁰³

In an interview by the *Los Angeles Times* newspaper with the managing editor of *Africa News*, an information and research organization specializing in sub-Saharan Africa, it became clear that documents seized by the FBI's raid could prove of extreme value to South Africa if they ever obtained it. It fitted in with South Africa's drive to manufacture as much of its military requirements as they could. Therefore, the technical information could help South Africa's design experts, especially if the equipment they were building were based very closely on a US piece of equipment. *Africa News'* comments were also substantiated by Thomas Conrad of the American Friends Service Committee, which monitored arms sales to South Africa. According to Conrad, the

102. J. Applegate & M.I. Pinsky, Agoura man arraigned on arms embargo violation, *Los Angeles Times*, 10 February 1987, p. B3; J. Applegate & M.I. Pinsky, Man charged with attempt to bypass S. Africa embargo, *Los Angeles Times*, 10 February 1987, p. 1; J. Applegate, Manual seller convicted in export case, *Los Angeles Times*, 31 July 1987, p. 3.

103. J. Applegate & M.I. Pinsky; Specialist calls arms data vital to South Africa, *Los Angeles Times*, 9 February 1987, p. 1; J. Applegate & M.I. Pinsky, Agoura man arraigned on arms embargo violation, *Los Angeles Times*, 10 February 1987, p. B3; J. Applegate & M.I. Pinsky, Man charged with attempt to bypass S. Africa embargo, *Los Angeles Times*, 10 February 1987.

seized manuals could have been of considerable value to the South African Government, as the South African military had an older fighter-bomber aircraft that needed to be replaced. Also, South Africa had just rolled out a prototype of a military helicopter as proof that it had been able to break through the arms embargo.¹⁰⁴

In March 1987, Posey was indicted on charges of knowingly and willfully exporting articles on the US Munitions List to Argentina, with South Africa as the ultimate destination, without first obtaining a required license or written approval from the US Department of State. This was in violation of the Arms Export Control Act as well as the CAAA of 1986. According to the charge, Posey from April 1986 to February 1987 negotiated with purchasers from the South Africa for the sale of technical manuals related to military equipment for export to South Africa. On 11 September 1986, the South African naval attaché in the US, Captain Nicholas Vorster, placed an order for technical manuals directly related to the overhaul, repair, and maintenance of engine driven generators for the J-79 engine normally used in US F-4 and F-16 fighter aircraft. The manuals were listed in the US Munitions List. Following the order, Posey met with Bush and discussed various methods of bringing money into the US, without declaring it to the Customs Service. On 4 December 1986, Posey agreed to make arrangements and pay for a trip to Argentina and South Africa by Bush. The purpose of the trip would be to export technical manuals relating to military equipment. On 26 January 1987, Posey and Bush met again to discuss Bush's itinerary and how to prepare packages for shipment to South Africa. On 5 February 1987, Posey and Bush met yet again at the Newport Aeronautical Sales office to package the manuals for shipment. On 7 February 1987, Bush checked in at the Los Angeles International Airport with three boxes containing the technical manuals. He was accordingly arrested for violation of the US Export Control Act.¹⁰⁵

On 11 March 1987, Posey and Bush were formally charged with trying to illegally export sensitive military manuals to South Africa. The indictment again implicated Vorster, the South African naval attaché in the US, as giving the orders for the export. It was the first time that the CAAA of 1986 was used as a basis for criminal charges.

104. J. Applegate & M.I. Pinsky; Specialist calls arms data vital to South Africa, *Los Angeles Times*, 9 February 1987, p. 1; J. Applegate & M.I. Pinsky, Man charged with attempt to bypass S. Africa embargo, *Los Angeles Times*, 10 February 1987.

105. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9, File 15, Diverse: *Court papers*, United States district court for the central district of California, USA: Plaintiff v. George MacArthur Posey, Defendant, February 1987.

According to an attorney for the Reagan Administration, the indictment was an effort to make it clear that they were enforcing the Act. He also said that the operation to export the manuals appeared to be part of a larger effort to deliver contraband military equipment to South Africa. In the meantime, Vorster had returned to South Africa at the end of February. He was allegedly recalled to prevent his expulsion from the US. On 16 March 1987, Bush pleaded guilty of violating the Arms Export Control Act, and agreed to cooperate with the FBI in their continuing investigation into violations of the US Arms Export Control Act. He also agreed to testify against Posey at his trial. The FBI promised Bush that his cooperation would be taken into account when he was to be sentenced late in April 1987.¹⁰⁶

In June 1987, it was Posey's turn to stand trial. Posey had since his indictment in March maintained that he did not violate the US law by exporting technical, military manuals to Argentina and South Africa, because they did not contain classified information. However, the US federal court refused to dismiss charges of illegal exportation of these manuals against Posey. Posey's firm had obtained material for the technical manuals from military sources under the US Freedom of Information Act, but the federal court ruled that such material was still subject to US export restrictions. In the ensuing case, the US federal attorney relied on court-authorized wiretaps obtained by the FBI to state their evidence against Posey. According to the attorney, recorded conversations between Posey and others indicated that he was aware that the military manuals seized by the FBI when Bush was arrested, could not be exported from the US without permission from the Department of State. He also knew that no military supplies or information whatsoever could be exported to South Africa as a result of the arms embargo and the CAAA of 1986. In addition, a wiretap installed in Posey's conference room related a coded conversation between Posey and a South African agent in August 1986. The FBI broke the code after the FBI's raid on Posey's office and home in February 1987. According to the conversation, Posey was told to get ready to meet the so-called 'big guy' from the South African military, Joseph Botha, who was to bring a list of materials sought by the South African military. But Posey denied that Botha was from the South African military, maintaining instead that he was a bookstore owner from Johannesburg. Furthermore, Posey said that his interpretation all the time

106. Anonymous, U.S. grand jury indicts 2 men on smuggling to South Africa, *The New York Times*, 15 March 1987, p. 14; Anonymous, Costa Mesa man caught with data for S. Africa pleads guilty, *Los Angeles Times*, 17 March 1987, p. 2.

was that items in the public domain were not subject to export restrictions. Another wiretap recorded conversations between Posey and Bush relating to the manuals under investigation.¹⁰⁷

Posey was eventually found guilty on three charges: first, a charge of conspiracy to violate the US Arms Export Control Act; second, a charge of violating the Arms Export Control Act; and thirdly a charge of violating the CAAA of 1986, which prohibited the trade in munitions to South Africa. The conviction bared heavy on Posey, who said that he couldn't believe that something so insignificant as generator manuals could be perceived so seriously by the US Government. He was later sentenced to ten years in jail.¹⁰⁸ This sentence was by far the heaviest yet after the institution of the mandatory arms embargo in 1977. In contrast to the fairly light sentences for arms embargo violation cases during the first term of the Reagan Administration, it now seemed that it was taking a much more serious stance towards such violations, presumably because the Posey/Bush case was not only a violation of the arms embargo, but also of the CAAA of 1986.

5.4.2.2 Spying for South Africa: the Dolce case

In October 1988, the first ever federal espionage prosecution involving South Africa, led to the conviction of a former civilian operations analyst at the US Army's Aberdeen Proving Ground in Maryland, Thomas J. Dolce. He pleaded guilty on a count of communicating classified data to agents of a foreign government. He admitted providing South African military attachés in the US with classified ballistic research information. Although the act of espionage started in 1979 already and continued through the terms of three South African military attachés in the US until 1983, Dolce acceded that he planned to renew the spying for South Africa in 1988. Interestingly, Dolce did not receive any payment for his espionage. Instead, he claimed that he had done it because of ideological reasons, i.e. he felt that the US should share its ballistic research

107. Anonymous, Counts upheld in arms data export case, *Los Angeles Times*, 16 June 1987, p. 12; J. Applegate, Jury told of wiretaps on Costa Mesa supplier, *Los Angeles Times*, 22 July 1987, p. 3.

108. J. Applegate, Manual seller convicted in export case, *Los Angeles Times*, 31 July 1987, p. 3; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9, File 15, Diverse: *Court papers*, United States district court for the central district of California, USA: Plaintiff v. George McArthur Posey, Defendant, February 1987.

information with South Africa because that country was staunchly anti-communist and faced Soviet equipment in Angola.¹⁰⁹

Dolce at first denied any involvement with South Africa, but started to provide information after FBI agents insisted that they did not believe them. It was determined that Dolce had a long-standing interest in South Africa and had sought employment there as far back as 1971. He returned to the US a year later after being disappointed by employment opportunities in South Africa and a requirement of one-year residency for defense-related work. In 1978, he made contact with the South African Embassy in the US by sending them an unclassified paper he had written on clandestine warfare, which received no reaction from the US Department of State and the CIA. After the initial contact, the South African defense and armed forces attaché, Colonel Bernardus Redelinghuys, met with Dolce to discuss his work at the Aberdeen Proving Ground. Redelinghuys indicated that South Africa would be most appreciative of any information Dolce could provide. Accordingly, in late 1979, Dolce provided Redelinghuys with part of a secret, classified ballistics research report. This was followed by a wide variety of defense-related information over the next four years. According to Dolce, all contact with the attachés was clandestine – he used pay phones to avoid detection and relied on the mail and hand deliveries to the South African Embassy and a suburban Washington home in which the attachés lived.¹¹⁰

The FBI refused to discuss how its agents learned of Dolce's spying from 1979 to 1983, and his intent to resume the activity in 1988, nor why it took five years from his last activity to confront him. Nonetheless, the case also illustrates the much stricter stance towards arms embargo violations by the Reagan Administration in its second term. This is especially evident from the fact that Dolce was denied bail and was given a stiff sentence of ten years imprisonment and \$10,000 fine, although an espionage

109. R.J. Ostrow & J.M. Broder, Suspect pleads guilty to spying for South Africa, *Los Angeles Times*, 12 October 1988, p. 16; Anonymous, Defense worker passed on US secrets to SA, *New Nation*, 19 October 1988, p. 6; Anonymous, US weapons analyst admits spying for SA, *The Argus*, 12 October 1988, p. 2; Anonymous, American admits he spied for S. Africa, *Chicago Tribune*, 12 October 1988, p. 22.

110. R.J. Ostrow & J.M. Broder, Suspect pleads guilty to spying for South Africa, *Los Angeles Times*, 12 October 1988, p. 16; Anonymous, VSA-'spioen' oor SA in pekel, *Die Transvaler*, 12 October 1988, p. 10.

conviction usually carried life imprisonment. The federal prosecution agreed to the lighter sentence because of Dolce's cooperation.¹¹¹

5.4.3 THIRD-PARTY TRANSFERS

5.4.3.1 The South African submarine case

Since a South African order of two Agosta-class submarines from France was cancelled in 1977, the South African Government tried to get a local submarine-building project off the ground. In 1981, a rumor went around that South Africa and Israel were secretly building a nuclear submarine at the South African naval base at Simonstown, as a direct result of a visit to South Africa by the Israeli Defense Minister in 1980. No proof could be obtained about the truth of this rumor, but the expansion of the submarine facilities of the Simonstown naval base to accommodate submarines of up to 3,000 ton, which was well in excess of the needs of the South African Daphne class submarines, certainly supported the rumor. In 1983, it was revealed that South Africa had tried to buy submarine technology from Spain worth US \$300 million, but the Spanish Government turned it down. In 1986, a further revelation concluded that the future South African submarine was based on the West German Type 209 submarine, for which blueprints have been delivered to South Africa via diplomatic mail in 1985. Criminal proceedings and a parliamentary investigation by the Federal German Government followed in late 1986, which revealed that South Africa had been negotiating for the blueprints since 1983. Also, initial investigations by the parliamentary submarine committee revealed that electronic equipment for the operating of submarines had been delivered to South Africa by the West German subsidiary of the US company Litton Industries, i.e. Litton Technische Werke of Freiburg. It was a third-party transfer clearly in violation of the US arms embargo regulations, although the customer was a private company in Johannesburg, Hubert Davies.¹¹²

The investigation of the Submarine Type-209 affair by the special German parliamentary submarine subcommittee came to a standstill in 1987. Key witnesses in the transaction failed to appear in court, and the companies involved succeeded in refusing to show

111. R.J. Ostrow & J.M. Broder, Suspect pleads guilty to spying for South Africa, *Los Angeles Times*, 12 October 1988, p. 16.

112. S. Landgren, *Embargo disimplemented: South Africa's military industry*, pp. 121-122; M.T. Klare, Who's arming who? The arms trade in the 1990s, *Technology Review* 93(4), p. 44.

documents that would have revealed commercial secrets. Further work by the committee was also hampered by a political row between the German coalition government and the opposition. Furthermore, although the transfer of submarine electronic equipment by the US Litton Industries subsidiary firm in Germany was a direct violation of US law, no criminal procedures were instigated in the US, and the matter remained unresolved for the duration of the Reagan Administration.¹¹³ This non-prosecution by the Reagan Administration raised many questions in the US, but the presidential elections in late 1988 and the subsequent new Administration under George Bush senior overshadowed it and the matter was consequently left undecided.

5.4.3.2 Israeli-supplied aircraft

In October 1986, the South African Air Force confirmed that it had acquired two advanced Boeing 707 in-flight refueling aircraft from Israel. Although the aircraft were equipped with sophisticated technology originating in Israel, the aircraft itself were manufactured by the US firm Boeing.¹¹⁴ The resale thereof to South Africa was therefore a direct violation of the 1982 US arms embargo regulations, which stipulated clearly that licenses for the export or re-export of aircraft to South Africa would be granted only on condition that the aircraft would not be put to police, military or paramilitary use. Furthermore, according to the Export Administration Regulations, any exporter who sold an aircraft to South Africa with knowledge or reason to know that the license condition would be violated, was subjected to prosecution. However, these regulations were not pursued in the foregoing case. As discussed, although Israel had transgressed US arms export regulations in many instances, as described in the Reagan Administration's 1 April 1987 report to the US Congress, all were basically forgiven because of Israel's March 1987 promise of ending its military ties with South Africa.

113. S. Landgren, *Embargo disimplemented: South Africa's military industry*, p. 122.

114. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/6/1, Volume 4: *Draft Report* on recent developments concerning relations between Israel and South Africa, Committee on the Implementation of United Nations Resolutions and Collaboration with South Africa, 30 September 1987.

5.4.4 LOOPHOLES IN THE REGULATIONS

5.4.4.1 Computers

In late 1985, a transaction of high-tech computer equipment by a US firm to a South African subsidiary of Armscor was disclosed by a US newspaper and a computer magazine. The transaction involved the planned shipment of ruggedized IBM personal computers, i.e. computers built to withstand shock and harsh environment. IBM bypassed its own South African subsidiary and negotiated with a small US military-orientated firm, Scientific Systems, to ship 100 IBM computers to the South African firm Bateman Ltd. Bateman Ltd. denied any military connections in its dealings with Scientific Systems, and signed a pre-licensing pledge not to re-sell the computers to the SADF. However, Bateman was the second largest shareholder in Cementation Engineering, an Armscor contractor. Cementation Engineering in turn was named by the US Department of State in 1981 as having helped produced the South African G5 155mm artillery system. IBM denied any wrongdoing, based on Bateman Ltd's denial of military links and its signing of the required pre-licensing pledge. However, Armscor and its subsidiaries were listed as non-receivers of US equipment in the latter's export regulations. Therefore, if the transaction was not disclosed, it would have been a direct violation of the US arms embargo against South Africa.¹¹⁵

After the disclosure of the transaction, IBM was asked by the *The Washington Post* about company efforts to monitor its South African clients. IBM answered that it was not really its policy to tell its customers how to conduct themselves. When asked what prevented an IBM user from reselling computer hardware to South Africa embargoed agencies, the answer was simply that theoretically, nothing at all. The firm acknowledged that even if local purchasers signed an end-use statement, they could provide equipment to third parties, who in turn could then re-sell it to whomever they chose. These statements indicated a lack of enthusiasm from US firms to employ the

115. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9: **Report** by the United Nations Special Committee against Apartheid delivered at the International Seminar on the United Nations arms embargo against South Africa, London, 28-30 May 1986.

country's export controls straight and successful.¹¹⁶ However, on the other hand, IBM could have gotten away with the transaction because of a loophole in the US export regulations. Prior to Reagan's 1985 Executive Order that specifically named Armscor and its subsidiaries as non-recipients of US-originated computer-related equipment, the US export regulations only stipulated the South African Government and its consignees as non-recipients of such equipment. Armscor was a consignee of the South African Government and therefore also its subsidiaries, but because this fact was not specifically stipulated in prior-to September 1985 export control regulations, IBM chose to accept it at face value.

In November 1985, the US Department of Commerce announced new export regulations based on Reagan's Executive Order of September. These regulations contained a contract sanctity clause that exempted business deals with certain apartheid-enforcing agencies in South Africa that were made before the Executive Order was announced. In essence, this was an escape hatch for the Reagan Administration, because it meant that computers or other equipment that were already in the pipeline to such agencies, or service and supply contracts that had already been signed with them, would be approved and honored by US officials.¹¹⁷ Thus, if the IBM transaction was not disclosed, it would have been concluded without anyone outside of the Reagan Administration probably knowing it.

5.4.4.2 Anti-hijacking and police gear

According to the US export control regulations of 1982, 1983 and 1985, licenses for crime control and detection instructions and equipment were denied to the South African military and police. However, this did not mean that it was automatically barred from shipment to other South African clients, because the regulations gave US licensing authorities the discretion to allow exports of security equipment to private security companies in South Africa. The same was true for anti-hijacking equipment, which was to be handled on a case-by-case basis. However, much anti-hijacking gear, like

116. Anonymous, U.S. Business debates S. African ties – limits on computer exports are difficult to enforce, *The Washington Post*, 25 August 1985, p. 1; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9: *Report*, United Nations Special Committee against Apartheid delivered at the International Seminar on the United Nations arms embargo against South Africa, London, 28-30 May 1986.

117. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9: *Report* by the United Nations Special Committee against Apartheid delivered at the International Seminar on the United Nations arms embargo against South Africa, London, 28-30 May 1986.

weapons, communications equipment, detection devices or other technology sold to apprehend hijackers, were virtually undistinguishable from other police equipment, and could easily be sold to the South African military and police by ostensibly private clients.¹¹⁸

5.5 CONCLUSION

In its relaxations of many arms embargo regulations and its general pro-South African stance during its first term, the Reagan Administration did not fully reckon with the anti-apartheid movement in the US. This movement had build up strength during the early 1980's in all sectors of US life, i.e. within the political arena, church movements, university campuses, cultural movements, etc. The movement reached its height in late 1984 to early 1985. Although Reagan was re-elected in November 1984 after a landslide victory over the Democratic Party candidate, his pro-South African stance was soon to elicit fierce opposition from the anti-apartheid movement. Due to extremely violent incidents in South Africa and crackdowns by the South African Government, the outcry against these incidents in the US became deafening. In the eyes of the anti-apartheid movement, the arms embargo against South Africa was no longer enough. Lobbying for extensive economic sanctions against that country gained momentum by the day, following the extension of the United Nations arms embargo in December 1984 to a prohibition on the import of South African-manufactured arms and related equipment. The Reagan Administration remained opposed to any further sanctions, boycotts or embargoes against South Africa, but by September 1985, it realized that it would no longer be able to fence off the institution of economic sanctions against South Africa in the US Congress. Consequently, Reagan in September 1985 announced limited economic sanctions against South Africa through an Executive Order in an effort to postpone stricter action by the US Congress. The Executive Order contained a number of regulations applicable to the arms embargo, mainly extending again some of the regulations that were relaxed during the first term of the Reagan Administration.

The Reagan Administration through the Executive Order succeeded in fighting off a crisis in the US Congress, but this would only have a short-term effect. In May 1986,

118. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9: *Report* by the United Nations Special Committee against Apartheid delivered at the International Seminar on the United Nations arms embargo against South Africa, London, 28-30 May 1986.

South Africa raided enemy targets in three neighbouring countries, thereby eliciting a new spate of protest in the US. In the months following, it became clear that many in the US Congress would settle for nothing less than comprehensive sanctions against South Africa. This time, Reagan could not counter the call. In October 1986, he was overruled when the Senate voted with an overwhelming majority to institute a comprehensive sanctions package against South Africa, called the Comprehensive Anti-Apartheid Act of 1986. This sanctions package contained several measures that would strengthen the arms embargo against South Africa, together with a clause obliging the Reagan Administration to report to the US Congress regularly on the implementation of the arms embargo.

Thus, although Reagan individually maintained a sense of goodwill towards South Africa for the rest of his term, he was now bound to adhere to the measures instituted by the US Congress. As far as the arms embargo was concerned, implementation by the Reagan Administration during its second term was strict, evidenced by the fact that very few violations occurred during this term. In the few cases that occurred, sentencing was generally strict, signalling that the Reagan Administration was serious in adhering to the regulations of the arms embargo, at least in its second term from 1984 to 1988.