

**THE 1977 UNITED STATES ARMS EMBARGO AGAINST SOUTH AFRICA:  
INSTITUTION AND IMPLEMENTATION TO 1997**

by

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**ABSTRACT**

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The institution and implementation of the 1977 mandatory United States arms embargo against South Africa and the impact thereof on relations between the United States and South Africa is investigated in this study. The investigation centers around the objectives of the United States in instituting the arms embargo, whether these objectives were met through the implementation and enforcement of the arms embargo, and whether the South African reaction to the embargo indicates the failure of the embargo to meet its objectives. The relation of the arms embargo to the foreign policy of the United States Government of the day, as well as the impact of the embargo on the South African military industry is discussed.

The basis on which the problem statement is built is that close scrutiny of the implementation of the arms embargo would allow one to judge the seriousness that the United States assigned to the objectives of the arms embargo. The main objective of the embargo was to force the South African Government to abandon apartheid. Full compliance with the embargo would demonstrate the commitment of the United States to this objective, while non-compliance would be regarded by critics as a retreat from that objective. The United States' implementation of the arms embargo would furthermore demonstrate the ability of major arms producers like the United States to reduce the threat of global violence by putting measures in place to successfully block arms and related items from being exported to potential belligerents.

In conclusion to the study, it was found that the implementation of the embargo was linked to external objectives of the United States Government of the day. Thus, the strengthening or weakening of arms embargo regulations occurred according to the objectives that the Government of the day wanted to achieve. Nonetheless, the United States' implementation of the arms embargo was generally very effective. It was also concluded that the arms embargo indeed acted as the main stimulant for the development of the world-renowned South African arms industry. This industry developed out of the determination of the white South African minority Government to remain in power, which in turn resulted in a defiant disregard for the arms embargo. Clandestine activities became

the order of the day. These activities later had a major impact on the first democratically elected black government in South Africa. This government inherited a legacy of embargo violations, which led to much tension in relations with the United States in the first few years after the 1994 South African elections. The research therefore also paints a picture of the inherited struggles that the new South African Government had to face as a result of the arms embargo, and the resultant difficulties in normalizing relations with the United States.

#### **Key terms**

United States, South Africa, arms embargo, foreign policy, apartheid, arms and related equipment, arms smuggling, nuclear weapons, arms industry, arms embargo violations, Munitions List, Export Administration Act, Export Administration Regulations, Missile Non-proliferation Agreement, Missile Technology Control Regime.

## OPSOMMING

Die instelling en toepassing van die verpligte 1977 wapenverbod teen Suid-Afrika en die impak daarvan op betrekkinge tussen die Verenigde State van Amerika (VSA) en Suid-Afrika word in hierdie studie ondersoek. Die ondersoek fokus op die doelwitte van die VSA met betrekking tot die instelling van die wapenverbod, of hierdie doelwitte bereik is deur die implementering van die wapenverbod, en of die Suid-Afrikaanse reaksie op die wapenverbod 'n aanduiding is van die mislukking van die doelwitte van die wapenverbod. Die verhouding van die wapenverbod met die buitelandse beleid van die VSA regering van die dag, sowel as die impak van die wapenverbod op die Suid-Afrikaanse wapenindustrie word bespreek.

Die basis waarop die probleemstelling berus is dat die noukeurige ondersoek van die implementering van die wapenverbod die navorser toelaat om die erns wat die VSA aan die doelwitte van die wapenverbod toegeskryf het, te beoordeel. Die hoofdoelwit van die wapenverbod was om die Suid-Afrikaanse regering te dwing om afstand te doen van apartheid. Die navorser was van mening dat volledige voldoening aan die wapenverbod die verbintenis van die VSA aan hierdie doelwit sou demonstreer, terwyl nie-voldoening deur kritici beskou kon word as 'n wegstramming van die bereiking van daardie doelwit. Die VSA se implementering van die wapenverbod sou verder die vermoë demonstreer van groot wapenvervaardigers soos die VSA om die dreigement van wêreldwye geweld te verminder deur die instelling en toepassing van maatreëls wat die uitvoer van wapens en verwante materiaal na potensiële aggressiewe state suksesvol kon verhinder.

In gevolgtrekking tot die studie is gevind dat die implementering van die wapenverbod verbind was aan die eksterne doelwitte van die VSA regering van die dag. Die gevolgtrekking kan dus gemaak word dat die versterking of verswakking van wapenverbod regulasies diensooreenkomstig die doelwitte van die VSA regering van die dag gedoen is. Desnieteenstaande was die VSA se implementering van die wapenverbod oor die algemeen uiters effektief. Die navorser het ook tot die gevolgtrekking gekom dat die wapenverbod inderdaad gedien het as hoofstimulant vir die ontwikkeling van die wêreldbekende Suid-Afrikaanse wapenindustrie. Hierdie industrie het ontstaan uit 'n determinasie van die minderheid blanke Suid-Afrikaanse regering om aan bewind te bly, wat weer aanleiding gegee het tot 'n uitdagende verontagsaming van die wapenverbod. Smokkelhandel en geheime wapenontwikkelingsaktiwiteite was aan die orde van die dag.

Die smokkelhandel het later 'n ernstige impak op die eerste demokraties verkose swart regering in Suid-Afrika gehad. Hierdie regering het 'n nalatenskap van wapenverbod-omseilings geërf, wat gelei het tot spanning in Suid-Afrikaanse verhoudinge met die VSA gedurende die eerste paar jaar na die April 1994 Suid-Afrikaanse verkiesing. Die navorsing skets dus ook 'n prentjie van die dilemmas as gevolg van die wapenverbod wat die nuwe Suid-Afrikaanse regering moes hanteer, asook die gevolglike struikelblokke in die normalisering van betrekkinge met die VSA.

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Psalm 118:14

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**ABBREVIATIONS**

ACOA	American Committee on Africa
AEB	Atomic Energy Board
AEC	Atomic Energy Corporation
AECA	Arms Export Control Act
AFSC	American Friends Service Committee
ANC	African National Congress
AP	Afrikaner Party
Armscor	Arms Corporation of South Africa
BOSS	Bureau of State Security
CSIR	Council for Scientific and Industrial Research
DIA	Defense Intelligence Agency
EAA	Export Administration Act
EAR	Export Administration Regulations
EC	European Community
e.g.	For example
ESCOM	Electric Supply Commission of South Africa
FBI	Federal Bureau of Investigation
IAEA	International Atomic Energy Agency
i.e.	is est
IMF	International Monetary Fund
ITAR	International Traffic in Arms Regulation
MK	Umkonto we Sizwe
MNPA	Missile Non-proliferation Agreement
MTCR	Missile Technology Control Regime
NNPA	Nuclear Nonproliferation Act
NP	National Party
NRC	Nuclear Regulatory Commission
NSA	National Security Agency
OASD/ISA	Office of the Assistant Secretary of Defense, International Security Affairs
OAU	Organization of African Unity
PAC	Pan Africanist Congress
PLO	Palestinian Liberation Organization
SADF	South African Defense Force

SANDF	South African National Defence Force
SAP	South African Party
SAPA	South African Press Association
SNEC	Subgroup on Nuclear Export Coordination
SWAPO	South West Africa People's Organization
UP	United Party
US	United States

## CHAPTER 1

### BACKGROUND, PROBLEM STATEMENT AND LITERATURE REVIEW

Note: As this study deals with the United States' institution and implementation of the mandatory arms embargo against South Africa, United States English has been used instead of Oxford English, which is the general academic requirement of the University of Pretoria.

#### 1.1 INTRODUCTION

From 1963 to 1997, South Africa was subjected to an international arms embargo – the first ever such measure instituted against a member state of the United Nations.<sup>1</sup> The word 'embargo' was first used in the 17<sup>th</sup> century to describe the prevention of commercial shipping in periods of conflict or war. Later, the concept was broadened to indicate a legal undertaking on the governmental level to prohibit trade with a certain country. An arms embargo is therefore the interdiction of arms shipments and sales to a particular nation or group, and is usually imposed as a response to some supposed threat by the offending country, or as part of a total trade embargo aimed at weakening the economic, political or military structures of a perceived enemy.<sup>2</sup> In the case of South Africa, the latter's policy of race segregation, generally known as apartheid, led to it being declared an international threat to peace by the United Nations in 1977. The embargo was first instituted as a voluntary arms embargo by the United States (hereafter US) in 1963, followed shortly afterwards by an embargo by the United Nations. In 1977, the US, again followed by the United Nations shortly afterwards, instituted a mandatory arms embargo against South Africa, which served as the direct predecessor of a flood of economic sanctions instituted against South Africa by the US in the mid-1980s.

The US Government in the course of time often made contradicting statements concerning military cooperation with South Africa. For example, in May 1962 the Kennedy Administration declared that, "*in a showdown, the US at present stands to*

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1. United Nations Department of Public Information, *The United Nations and Apartheid, 1948-1994*, p. 20.
  2. R. Leonard, *South Africa at war: White power and the crisis in southern Africa*, p. 4; J.M. Elliot & R. Reginald, *The arms control, disarmament, and military security dictionary*, p. 84.

*lose more than South Africa would lose ... At least in the short term, we need South Africa's cooperation in the space and military fields.*"<sup>3</sup> Scarcely fourteen months later, on 1 August 1963, the Kennedy Administration announced an embargo on military cooperation and the sale of arms and military equipment to South Africa. In May 1977, a member of the Carter Administration made the following statement: *"Our diplomacy toward South Africa must therefore be carried out with a good deal of finesse and skill. We shall have to weigh carefully the relative merits of speaking out and of restraint."*<sup>4</sup> Then, in a bold move barely five months later, in October 1977, Carter instituted a mandatory arms embargo against South Africa, calling the South African Government a threat to international peace.<sup>5</sup> Another example is that of the Administration of Ronald Reagan and its policy of Constructive Engagement towards South Africa. In January 1985, the Reagan Administration declared: *"Our conscious effort to relax the siege mentality no doubt played a part in enabling [State President] P.W. Botha to take the bold decision to put forward constitutional proposals ..."*<sup>6</sup> Ten months later, Ronald Reagan himself declared the contrary in an Executive Order: *"I, Ronald Reagan, President of the United States of America, find that the policies and actions of the Government of South Africa constitute an unusual and extraordinary threat to the foreign policy and economy of the United States and hereby declare a national emergency to deal with that threat"*.<sup>7</sup> This Executive Order was precursor to wide-ranging economic sanctions, including the Comprehensive Anti-Apartheid Act that was instituted against South Africa by the US in 1986.

What were the factors at work behind these sudden changes in US policy and the eventual institution of a mandatory arms embargo against South Africa? Before one can begin to seek an answer to this question, it is necessary to provide some background on the internal policies of South Africa, the build-up of the South African arms industry and the relations between the US and South Africa prior to 1977.

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3. Kennedy Presidential Library (Boston), Public Papers, National Security Files, Box 2: ***Republic of South Africa: Department of State guidelines for policy and operations***, p. 2.
  4. As quoted in W.E. Schauffele, Jr., United States relations with South Africa, ***Department of State Bulletin***, 9 May 1977, p. 468.
  5. Anonymous, US is said to agree to arms sanctions against South Africa, ***New York Times***, 26 October 1977, p. 1
  6. As quoted in 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. 7.
  7. As quoted in R. Reagan, South Africa: Presidential Actions, ***Department of State Bulletin***, October 1985, p. 2.



## 1.2 BACKGROUND

### 1.2.1 SOUTH AFRICA'S INTERNAL POLITICS

The institution of the mandatory arms embargo against South Africa by the US in 1977, should be viewed in the light of concerted efforts in the United Nations for punitive measures to be taken against South Africa. Three interrelated events were especially responsible for these efforts and the subsequent institution of the arms embargo in 1977: the policy of apartheid of the South African Government and the internal unrest that it caused; the military build-up of the South African Government, in spite of the United Nations arms embargo instituted against it in 1963; and the question of independence for South West Africa (Namibia), where South Africa's administration and military presence was regarded as illegal.<sup>8</sup>

South Africa became a political unit in 1910. It was initially governed by the South African Party (SAP), then by the National Party (NP), and from the early 1930s by the United Party (UP). In the mid-1940's, prior to the 1948 general elections, the re-constituted National Party (NP) campaigned for white supremacy, stricter segregation of races and separate development of races, or "*apartheid*". This meant that non-white South Africans would be stripped of all legal, political and economic rights. However, apartheid was not a totally new policy instigated in 1948 – race segregation in South Africa merely became even tighter. Political and property rights were withheld from black people even before South Africa became a Union in 1910. It was subsequently regulated in one of the most controversial laws ever passed in South Africa, namely the Natives Land Act of 1913. In terms of this law, the rights of black people living on private property owned by white people were severely restricted. It resulted in tens of thousands of black people being forced to leave these areas. In addition, black people in white areas had since the 18<sup>th</sup> century been forced to carry passes, which had to be shown on demand to any white person. It was regarded as a criminal offence for a black person to be in a 'white' area without a pass.<sup>9</sup>

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8. Armscor Archives (Pretoria), Subject: Sanctions and arms embargoes, Box 6, File 11, Study material: *The arms embargo against the RSA*, 15 October 1986; M. Hough, Military sanctions against the RSA: Current and future prospects, *Strategic Review for Southern Africa* 15(1), May 1993, p. 23; J.P. McWilliams, *Armscor: South Africa's arms merchant*, p. 23.
9. D. Posel, *The making of apartheid, 1948 – 1961*, pp. 39-60; J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, pp. 42 – 43; T.R.H. Davenport, *South Africa: A modern history*, 4<sup>th</sup> Edition, p. 530-532.

The NP succeeded in gaining an electoral victory in the 1948 elections, after an agreement with yet another party, the Afrikaner Party (AP), which firmly believed that the UP had put South Africa on a road that would eventually lead to destructive black rule. In the months and years after the elections, the NP implemented a wide range of measures and laws aimed at total race segregation. In brief, these measures and laws included:

- Prohibition of relationships and marriages between white and non-white people;
- A central population register by which all South Africans would be classified as white, colored or black;
- Prohibition of black people on leaving jobs without the permission of their white employers;
- Restriction on the movement of black people without a pass;
- Institution of a system of labor bureaus to ensure that the labor needs of white farmers were met before large numbers of black people were released to work in the cities;
- Separate education for black and white people; and
- The dividing of black people into ten ethnic nations, each with its own "homeland" and administrative apparatus. The idea was that each of these territories would gain independence at some future stage.<sup>10</sup>

In the years after 1948, the South African Government used legislation, restrictions, crackdowns and arrests to crush any black resistance to the system of apartheid. The resistance organization that played the biggest role at the time, was the African National Congress (ANC), which was formed as the South African Native National Congress (SANNC) in 1912 (it became known as the ANC in 1923). Until 1948, the ANC's resistance was limited to strikes and other protest activities. By the early 1950s, the resistance took the form of mass demonstrations and work stay-aways, culminating in June 1955 in the drafting of a document called the Freedom Charter. The Freedom Charter was based on the United Nations Universal Declaration of Human Rights. It affirmed that South Africa belonged to all its inhabitants, black and white. In the light of

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10. D. Posel, *The making of apartheid, 1948 – 1961*, pp. 61-90; L.E.S. de Villiers, *US sanctions against South Africa: A historical analysis of the sanctions campaign and its political implications, 1946-1993*, p. 19.

this, it demanded a non-racial, democratic system of government, with equal protection for all people. In 1959, a split in the ANC led to the formation of a new resistance group, the Pan Africanist Congress (PAC). Although it was in conflict with the ANC, it would become a permanent role-player in black liberation politics in South Africa.<sup>11</sup>

In 1958, H.F. Verwoerd became the new South African premier. He ushered in two major changes in the political orientation of South Africa: firstly, a firm commitment to a policy of some kind of independence for the black "homelands", and secondly, the decision that South Africa should become a Republic. Both these changes occurred against a backdrop of increased tension, especially since the PAC was unashamedly militant and grew within a year to an organization that was almost as strong as the ANC. On 21 March 1960, the PAC launched a national anti-pass campaign. Groups of black people in various parts of the country burnt their passes and thereafter went to police stations to demand arrest. Although the protests were peaceful in most places, it led to bloodshed in Sharpeville near Vereeniging and Langa near Cape Town. In Sharpeville, the police panicked and opened fire, killing 69 and wounding 178 protesters. In Langa, two black people were killed. The results were far-reaching, both in South Africa and abroad, and the police were criticized for being overly violent. The South African Government attempted to contain the crisis by a massive crackdown on 24 March 1960 on the offices and homes of most of the prominent leaders of the black resistance movements. In addition, all public meetings in many areas of the country were prohibited, and the pass laws were temporarily suspended. However, these measures were in vain. On 30 March, approximately 30,000 black people from Langa and Nyanga took to the streets of Cape Town city center. The next day, Langa was cordoned off by the police and the South African Defense Force (SADF), and a state of emergency was declared. This was followed by the banning of the ANC and PAC on 8 April 1960.<sup>12</sup>

On 31 May 1961, South Africa became a Republic, in the midst of one last attempt by the ANC to stage a nonviolent protest action in the form of a three-day stay-at-home. The action was followed by legislation giving the Government emergency powers to

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11. J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, pp. 37 - 116; N. Mandela, *Long walk to freedom*, pp. 158-160; T.R.H. Davenport, *South Africa: A modern history*, 4<sup>th</sup> Edition, p. 350-352.
  12. J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, pp. 124-125; N. Mandela, *Long walk to freedom*, p. 231.

deal with unrest and dissent without declaring a national emergency. This led the ANC to conclude that they now had only two choices left: submit or fight. Nelson Mandela, the leading figure of the ANC at the time, along with other ANC leaders then decided that the time had come to use violence in the fight for freedom, although targets would be limited to physical property such as electric power lines and symbols of the state, not people. Accordingly, in June 1961 Mandela, Walter Sisulu and a few other leaders of the banned ANC and SACP formed Umkonto we Sizwe (Spear of the Nation), also known as MK, to serve as the ANC's military arm to carry out sabotage. Nelson Mandela was appointed the Commander-in-Chief of MK.<sup>13</sup>

The PAC also established a military wing, called Poqo, after its banning. P.K. Leballo acted as its leader on behalf of Robert Sobukwe, who was in custody when Poqo was formed. In contrast to MK, which was multiracial, only black people could belong to Poqo. The latter was also much more militant than MK, which was adamant that it would focus only on sabotage and avoid loss of life. Poqo's strategy focused on three phases: intimidating black people through a terror campaign in order to build the organization up and achieve total strategy; extending the terror campaign to include the white government and all people, no matter of what race, who were pro-government; and well-planned attacks on white people countrywide, with the eventual aim of establishing of a black government when the white government collapsed.<sup>14</sup>

MK's sabotage campaign started on 16 December 1961, when homemade bombs were exploded at symbolic targets in Johannesburg and Port Elizabeth. The date was chosen for a reason – it was the day that white South Africans celebrated the victory over the Zulu tribe at the Battle of Blood River in 1838. They hailed the victory as a sign that God was on their side. Black South Africans on the other hand mourned the day as a massacre of their people. By mid-1963, more than seventy acts of sabotage had been carried out by MK, thereby ushering in a totally new phase in the internal opposition to apartheid. Poqo, in turn, launched itself into the secret training of a guerilla force at the time that the police's attention was fully focused on the sabotage campaign of MK. In 1962 Poqo decided to launch a terror campaign against white South Africans, and a

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13. N. Mandela, *Long walk to freedom*, pp. 260-262; J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, p. 129; COSAWR, *State of War: Apartheid South Africa's decade of militarism*, p. 3.

14. J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, p. 134.

white shop owner was consequently killed at Paarl not long after the decision was taken. This was followed by the arrest of the Poqo leader in the Paarl district. The organization thereupon decided to launch a full-scale attack against the police station, the prison and all white inhabitants in Paarl. However, the police foiled the attack. Other attacks followed in various parts of South Africa, but the police retaliated in force and by May 1963, the PAC reached a very low level of existence in South Africa. It then turned to continuing its resistance in exile. It had links with the FNLA, a liberation organization in Angola, but the latter suffered eventual defeat at the hands of the rival MPLA. It also unsuccessfully tried to build up contact with the People's Republic of China.<sup>15</sup>

On 11 July 1963, the ANC sabotage campaign suffered a major setback when the police raided the MK headquarters on a smallholding in Rivonia, a suburb of Johannesburg, and confiscated a large number of documents detailing plans for sabotage and revolution. The entire High Command of MK were arrested. The so-called Rivonia trial followed, and on 12 June 1964, eight men, including Mandela, were sentenced to life imprisonment. In the meantime, partly in reaction to the arrests, the US had instituted an arms embargo against South Africa on 2 August 1963, followed a few days later by a voluntary arms embargo against South Africa by the United Nations Security Council. All member states were called upon to cease the sale and shipment of arms, ammunition of all types and military vehicles to South Africa. In addition, the South African Government was requested by both the General Assembly and the Security Council to unconditionally release all persons imprisoned for their opposition to apartheid. The South African Government however ignored the request. By 1965, the underground resistance of the ANC within South Africa was crushed and the organization was forced to operate in exile. It moved to build international contacts with the Soviet Union and with the Organization of African Unity (OAU) that was established at Addis Ababa in 1963. In addition, it made common cause with the Zimbabwe African People's Union, which was resisting British colonial rule in Rhodesia. The ANC managed to send a handful of infiltrators into South Africa and pamphlet bombs were exploded in a few large centers in 1971. However, it did not succeed in causing any real

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15. N. Mandela, *Long walk to freedom*, pp. 335-336; COSAWR, *State of War: Apartheid South Africa's decade of militarism*, p. 3; T.R.H. Davenport, *South Africa: A modern history*, 4<sup>th</sup> Edition, p. 388; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 175; J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, pp. 134-136.

disturbances or build up a local base in South Africa, and therefore remained relatively quiet until the Soweto riots of 1976.<sup>16</sup>

In the decade from 1965 up to 1976, South Africa's internal politics was characterized by relative silence on the part of the resistance movements. During this decade, the South African Government launched itself with zeal into solidifying white support and strengthening the economy and security forces. By 1977, South Africa had already built up the reputation of having formidable military power, despite the arms embargo that was instituted against it in 1963. This meant that the country had come very close to being self-sufficient in arms production. This fact was a major concern to a large portion of the international community, because, firstly, it signified a basis for aggression against South Africa's neighboring countries, and secondly, South Africa's military power was regarded as a threat to international peace and security on the African continent.<sup>17</sup> Consequently, in November 1977, the United Nations Security Council declared South Africa a threat to peace, shortly after the US announced a mandatory arms embargo against the country. To understand why this was the case, it is necessary to provide a broad overview of how the South African arms industry came to flourish and expand.

### 1.2.2 THE BUILD-UP OF THE SOUTH AFRICAN ARMS INDUSTRY

The South African Government became interested in domestic arms production after World War II. During the war, ammunition production plants were put in operation in South Africa to help arm the Allies. However, after the war, these plants were closed until 1948, when the new NP Government, after some investigation, reopened the plants. The reason was that they wanted to develop a stronger military establishment to make South Africa independent from the United Kingdom in security matters. Thereafter, arms production in South Africa stayed at a low level, until concern about domestic security started to intensify after the Defiance Campaign of 1952. This concern was heightened by the Sharpeville incident and the subsequent sabotage campaigns of the ANC, as well as pressure on South Africa to leave the Commonwealth

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16. N. Mandela, *Long walk to freedom*, pp. 273-274, 362; M.A. El-Khawas, The liberation struggle in South Africa: Will the 1980s be decisive? *TransAfrica Forum*, Fall 1983, p. 80; J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, pp. 132-133; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 175.

17. Armscor Archives (Pretoria). Subject: Sanctions and arms embargoes, Box 6, File 11, Study material: *The arms embargo against the RSA*, 15 October 1986.

due to the NP Government's apartheid policy. In addition, the Sharpeville incident and the crackdown on resistance by the South African Government gave a significant boost to international action against apartheid, which culminated in the voluntary arms embargo imposed by the United Nations in 1963. This embargo led to two of South Africa's biggest arms suppliers, i.e. Britain and the US, declaring that all provisions of arms and military equipment would cease after 1963.<sup>18</sup>

For the South African Government, it was essential to build up its military strength. This would not only enable the country to defy the United Nations over Southern African regional issues, e.g. the issue of independence for South West Africa (Namibia), but also to sell itself as a valuable ally of the West in the fight against communistic influence in the region, especially since both the ANC and PAC turned to communist countries and movements for assistance after being banned.<sup>19</sup>

Even before the arms embargo was instituted, the South African Government stated in April 1963 that the Government had all the weaponry it needed to maintain internal order. In October 1963, the establishment of an institute for the development of a ground-to-air missile was announced, and rumors that colorless, odorless and tasteless poison gases were being developed, were reported in some newspapers. However, these reports could not be substantiated at the time. After the non-binding arms embargo was instituted in 1963, efforts to ensure large-scale domestic arms production were doubled. By 1964, the South African Government had already spent between 2-3% of the Gross National Product (GNP) and 21% of the Government Budget on defense expenditures, in comparison with less than 1% of the GNP and less than 7% of the Government Budget before 1960. The small Permanent Force of the SADF was enlarged by 65%, while commando reserves, which were primarily responsible for the defense of farms and residential areas, were enlarged by 18%. In addition, in 1964 the

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18. South Africa: The making of United States policy, 1962 - 1989, Microfiche collection, National Security Files, fiche 01106: **Intelligence document**: Department of Defense, 15 July 1980; Study Commission on US Policy Toward Southern Africa, **South Africa: Time Running Out**, pp. 233-234; J.P. McWilliams, **Armscor: South Africa's arms merchant**, pp. 10-11.

19. South Africa: The making of United States policy, 1962 - 1989, Microfiche collection, National Security Files, fiche 01106: **Intelligence document**: Department of Defense, 15 July 1980; Study Commission on US Policy Toward Southern Africa, **South Africa: Time Running Out**, pp. 233-234; J.P. McWilliams, **Armscor: South Africa's arms merchant**, pp. 10-11.



Munitions Board was established, whose primary responsibility it was to promote local arms production through procurement, research, testing, maintenance and inspection.<sup>20</sup>

The Munitions Board's efforts quickly mushroomed into a full-scale arms production program. By 1965, it had already obtained 120 licenses for local manufacturing of weapons, and was practically self-sufficient in the production of small weapons and small caliber ammunition. Furthermore, preparation for building aircraft was started, which in 1967 culminated in the production of Italian Impala jet aircraft under license. In 1968, two organizations were established to administer the arms production program's overall direction and actual procurement: the Armaments Board (previously the Munitions Board) and Armscor, a parastatal corporation. Armscor was made responsible for weapons development, managing the state-owned factories and acquiring equipment both locally and overseas. At the end of 1968, the mounting of the first locally build naval vessel was completed, as well as the establishment of a missile base on the Natal Zululand coast. On 17 December 1968 the first rocket was successfully fired at this base. In 1969, the local development of the Cactus air defense system, in cooperation with France, was announced. This system became the backbone of the South African air defense system.<sup>21</sup> By 1972, the South African Minister of Defense, P.W. Botha, announced the progress being made in the development of advanced ammunition and armaments in the following statement: *I want to repeat today that South Africa can no longer be isolated by arms boycotts. We are absolutely self-sufficient regarding internal demands - on the contrary, an intensive investigation is under way at present with a view to exporting such weaponry*".<sup>22</sup>

Another major spurt in the military build-up of South Africa occurred from 1974 to 1977. By 1977, the defense appropriation was close to 20% of the budget and 5.1% of the GNP. The target level for standing forces rose by 18%, totaling 65 000 men on active duty. One can reasonably ask: "Why did this major spurt occur?". During the

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20. J.P. McWilliams, *Armscor: South Africa's arms merchant*, p. 11; South Africa: The making of United States policy, 1962 - 1989, Microfiche collection, National Security Files, fiche 01106: *Intelligence document*: Department of Defense, 15 July 1980; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 234; Krygkor, *SALVO: Krygkor 20 Armscor*, p. 12; R. Leonard, *South Africa at War*, p. 137.

21. Krygkor, *SALVO: Krygkor 20 Armscor*, p. 12; R. Leonard, *South Africa at War*, p. 137; J.P. McWilliams, *Armscor: South Africa's arms merchant*, p. 11; South Africa: The making of United States policy, 1962 - 1989, Microfiche collection, National Security Files, fiche 01106: *Intelligence document*: Department of Defense, 15 July 1980.

22. As quoted in J.P. McWilliams, *Armscor: South Africa's arms merchant*, p. 21.



1970's, South Africa's military requirements started to increase basically as a result of four main areas of threat to its security: guerrilla insurgent actions, conventional assault, economic isolation and psychological warfare. The guerrilla insurgent actions were firstly conducted by the South West African People's Organization (SWAPO) against the South African administration of South West Africa (Namibia), and secondly by the banned ANC into South Africa. Furthermore, with the decolonization of Angola and Mozambique in the mid-1970's and the institution of hostile governments there, the South African Government felt that notwithstanding the suppression of internal unrest, it also had to deal with the possibility of a conventional threat. This threat was strengthened through the fact that the increasing range, quantity and degree of sophistication of armaments that the Soviet Union provided to Angola, Mozambique, the ANC and SWAPO, provided them with a substantial capacity for a conventional war against South Africa. On the economic side, international trade action against South Africa increased. This action was linked to an internal campaign of black South African trade unions that started to move in the direction of maximum economic disruption. The South African Government regarded this as being more of a threat than insurgent action. Lastly, the South African Government was of the opinion that Soviet Union and its satellite states were waging a relentless psychological war against them; i.e. to isolate South Africa from the world community and to condition the world toward hostile economic and military action against the country. The South African Government believed that the aim of this effort was to break its will to resist and then lead the country into the Marxist sphere of influence. In the view of the South African Government, the combination of all these threats constituted a 'total onslaught' against South Africa.<sup>23</sup>

In the light of the 'total onslaught', the South African Government reasoned that only a comprehensive counterstrategy would enable the country to survive. Consequently, a

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23. Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 234; W.R. Johnson, Destabilization in Southern Africa, *TransAfrica Forum*, Fall 1983, p. 66; J.P. McWilliams, *Arm Scor: South Africa's arms merchant*, p. 24; South Africa: The making of United States policy, 1962 - 1989, Microfiche collection, National Security Files, fiche 01106: *Intelligence document*: Department of Defense, 15 October 1980.

'total strategy'<sup>24</sup> was commissioned by Prime Minister John Vorster at the beginning of 1977. Within this philosophy, the South African Government arranged its defense establishment accordingly, along with the threatening remark to the international community that if South Africa was economically being destabilized, the economic structure of the whole of Southern Africa would collapse, placing the vital strategic interests of the West in jeopardy. The first indication of a 'total strategy' actually already occurred in the early 1970's, when a centralized intelligence agency called the Bureau of State Security (BOSS) was formed. In addition, the private industry was being notified that it could be called upon at any time to provide any item deemed strategic by the Government. In an equally important move in 1977, Armscor's responsibilities were expanded to cover the entire process of weapons production from research to manufacture, servicing and repair, and procurement from private industries. Also, despite the announcement by Botha in 1972, as quoted earlier, South Africa procured a large percentage of its armaments from overseas countries despite the 1963 arms embargo. The truth is that the 1963 embargo was not strictly enforced by all the member states of the United Nations. It was openly flouted by countries like France and Italy, and more covertly in other countries such as the US, where armament manufacturers exploited several loopholes in the enforcement of the embargo, e.g. the granting of licenses for the provision of spare parts for earlier sales and dual-use equipment and components to South Africa.<sup>25</sup>

In the process of armaments procurement and production, a fundamental change by 1977 had taken place in the South African military establishment, namely a reorientation towards a "landward threat" and away from the traditional role of South Africa as a partner of the West protecting the sea-lanes around the southern point of

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24. It is interesting to note that by 1981, the South African Government had compiled a manual called "Administration Total War", which replaced the old State War Book. The latter was more focused on conventional military actions, while the new manual built on the understanding that South Africa was already in a state of total war. Therefore, it also included guidelines on countering non-conventional actions like ideological, economic, psychological and cultural-religious onslaughts. See Armscor Archives (Pretoria), File 1/15/2/3/2, Volume 5: Main Management: Departmental Committees, Commissions and Management Boards, State Security Board, Economic Liaison Committee, **Administration Total War: Feedback to the Management Committee**, 11 September 1981.
  25. J.F. Burns, Afrikaners dig in against threat to their rule, *The New York Times*, 4 April 1977, pp. 1, 8; J.P. McWilliams, **Armscor: South Africa's arms merchant**, pp. 24; Krygkor, **SALVO: Krygkor 20 Armscor**, p. 14; South Africa: The making of United States policy, 1962 - 1989, Microfiche collection, National Security Files, fiche 01106: **Intelligence document**: Department of Defense, 15 July 1980; W. Cobbett, Apartheid's army and the arms embargo in J. Cook & L. Nathan (eds.), **Society at War: The militarization of South Africa**, p. 234; J. Nessen, The United States – still arming Apartheid, *Southern Africa*, November 1978, p. 4; S. Gervasi, **The United States and the arms embargo against South Africa: Evidence, denial and refutation**, pp.5-6; Study Commission on US Policy Toward Southern Africa, **South Africa: Time Running Out**, p. 248.

Africa. The South African Government thereby severed most of its strategic ties with the West, and instead turned its attention to riot control, close air support of mobile ground forces, counterinsurgency operations, coastal patrol and interdiction, commando strike techniques, and local naval defense. In support of these, top priority was given to modernizing light and mobile ground forces with self-contained artillery and flexible air support.<sup>26</sup>

Internationally, the apartheid policy of the South African Government, coupled with the build-up of its military force, elicited much emotion. Apartheid was regarded as a gross violation of human rights and a crime against mankind. It was regarded as equal to colonialism, slavery and aggression; therefore a violation of the international law as stipulated in Chapter VII of the UN Charter.<sup>27</sup> However, it did not elicit much action on the part of the US Government, although some factors through the years contributed to the souring of US-South African relations, which will be discussed in the next section.

### 1.2.3 OVERVIEW OF US-SOUTH AFRICAN RELATIONS UP TO 1977

The history of US linkages with South Africa dates back to 1799, when the US opened a consulate in what was then the Cape Colony. That was followed in the nineteenth century by a US consulate in Pretoria. On the commercial side, the influence of the US on the Cape Colony was acknowledged as early as 1803 by Dutch Governor Janssens. Since then, relations between the US and South Africa had been cooperative, although at a low level. Up to the Second World War, US relations with South Africa, as in fact with most countries, fell within the boundaries of four traditional concerns, namely commerce, humanitarianism, anticolonialism and political noninvolvement. Fundamental to these four concerns was the refusal of the US to undertake any formal responsibility as far as Africa, with the exception of Liberia, was concerned, as it was concerned that any formal responsibility in Africa would contradict the Monroe Doctrine of 1823<sup>28</sup>. At the start of the twentieth century, it did however provide a diplomatic principle for extending US commercial and financial connections with Africa through a so-called

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26. Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 235.

27. Armscor Archives, Pretoria. Subject: Sanctions and arms embargoes, Box 6, File 11, Study material: *The arms embargo against the RSA*, 15 October 1986.

28. The Monroe Doctrine, a cornerstone of US foreign policy, was enunciated by President James Monroe in a public statement proclaiming three basic dicta: no further European colonization in the New World, abstention of the US from European political affairs, and nonintervention of Europe in the governments of the Western hemisphere. See *New Encyclopaedia Britannica*, Volume VI, p. 1007.

“Open Door” free-trade policy. This significantly helped to build up South Africa through the export of US goods, capital and technical expertise.<sup>29</sup>

In the years before the First World War, official governmental ties between South Africa and the US did not enjoy much attention. After South Africa became a Union in 1910, it relied primarily on the British Government for external links, while the US, enjoying the benefit of profitable activities by the private sector in South Africa, focused its energy on developing new opportunities in the rest of Africa. After the First World War, however, relations strengthened, although minimally. South Africa participated in the First World War as part of the British Empire. As a result, after the war, the South African Prime Minister at the time, Jan Smuts, enjoyed a high standing in the United Kingdom and the US, especially since he participated closely with the US in the drawing up of the Covenant of the League of Nations. In 1926, the position of South Africa and other British dominions was clarified through a Declaration that confirmed South Africa’s autonomous status. This led to the creation of a separate Department of External Affairs on 1 June 1927. In 1928, the US raised the status of its consulate in Pretoria to that of consulate-general and in 1929, a South African legation was opened in Washington, D.C. The US Consulate in Pretoria was upgraded to an embassy in 1949.<sup>30</sup>

In 1939, the Second World War broke out, with South Africa playing a role as a valued partner of the Allies in the fight against fascism, by participating in the war in North Africa and Italy. During the war, the US signed a lend-lease agreement of over \$100 million with South Africa, which was repaid by the South African Government in 1947. In exchange for the lend-lease aid, the US War Department was granted the right to establish several air bases on South African soil, in support of the Allied war effort. At the end of the war, South African Prime Minister Smuts once again augmented his prestige by working closely with the US in the establishment of the United Nations. In

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29. E. Rosenthal, *Stars and Stripes in Africa*, p. 42; D. Prinsloo, *United States Foreign Policy and the Republic of South Africa*, p. 45; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 8; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 341.

30. R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 8; D. Prinsloo, *United States Foreign Policy and the Republic of South Africa*, pp. 45-46; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 342.

general, however, South Africa was considered part of Europe by the US Department of State, therefore it remained essentially unknown and ignored in the US.<sup>31</sup>

In 1948, the NP's election victory in South Africa raised some eyebrows in the US, but it did not cause immediate, significant consternation. South Africa was still, as far as President Harry Truman and his Administration were concerned, just another friendly country. His goodwill was even more secured when Prime Minister D.F. Malan ensured the US of his Government's support in the fight against communism. Malan also contributed an aircrew for the Berlin airlift and dispatched a fighter squadron for the war that broke out in Korea in 1950. Indeed, in the years 1948 to 1957, there was some pressure within the US national security bureaucracies to strengthen ties with South Africa.<sup>32</sup> Even when the ideology of apartheid became the target of an Asian-Arab resolution in the United Nations for the first time in 1952, the US Secretary of State, Dean Acheson, set an abstention rule whereby the US refused to vote for specific resolutions on South African issues. In the words of Acheson: "*The US should not intervene for what are called moral reasons in the internal affairs of another country. Moral reasons for interfering are merely a cover for self-indulgent hypocrisy*".<sup>33</sup>

Support for stronger US-South African ties also came from the side of the US Department of Defense, which regarded South Africa as having an excellent strategic location, excellent port facilities and experienced military forces – all factors that made South Africa an important ally in the Cold War.<sup>34</sup> Consequently, military cooperation between the US and South Africa was encouraged. It took on many forms, including routine exchange visits by ranking officers of both the US and South African military forces; a military agreement in 1951 authorizing reimbursable US military assistance under the Mutual Defense Assistance Act; maintaining access to South African ports in exchange for joint military maneuvers with the South African Navy; and the sale of

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31. J.E.H. Grobler, To pay and what to pay? South Africa and lend-lease in the 1940's, *Historia* 40(2), November 1995, pp. 90-92; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 191; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 342.
  32. R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 8; D. Prinsloo, *United States foreign policy and the Republic of South Africa*, p. 46; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, pp. 191 – 192; Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 344.
  33. As quoted in Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 344.
  34. The open yet restricted rivalry that developed after World War II between the United States and the Soviet Union and their respective allies. The Cold War was waged on political, economic, and propaganda fronts and had only limited recourse to weapons. See *Encyclopædia Britannica* 2003.

arms, in particular fighter aircraft, to the South African military forces. In 1954, the South African Government asked for NATO bases to be established in South Africa as a means of gaining a defense guarantee from the US, and until 1957, South Africa made repeated requests for the formation of a “Southern NATO”. Neither of these plans however materialized.<sup>35</sup>

Another proponent of closer ties between the US and South Africa was the Central Intelligence Agency (CIA). The CIA regarded South Africa as a natural ally in American efforts to hamper communist expansionism by the Soviet Union, on the grounds of a zealous anti-communist outlook on the part of the governing National Party. The CIA was especially interested in building up the South African counterintelligence capabilities to counteract a potential revolutionary upheaval within southern Africa, where the possibility for Soviet manipulation of African nationalism and decolonization was particularly great. Lastly, nuclear cooperation under the auspices of the Atomic Energy Commission constituted a final element in the strengthening of US-South African ties. In November 1950, the South African Government signed an agreement with the US whereby the former would provide the US with its entire output of uranium oxide, in return for technical and scientific collaboration. In 1954, the International Atomic Energy Board was formed, with South Africa being invited to join the US, Britain and other European states as members. In 1957, the US and South Africa signed a 20-year cooperation agreement on nuclear energy research and the development of nuclear power. In addition, the US relied heavily on the importation of other strategic raw materials and minerals from South Africa.<sup>36</sup>

At this point, it can be reasonably concluded that the US policy with regard to South Africa after the Second World War was based on the postwar military and economic linkages between the two countries. This included South Africa’s immense mineral wealth; its great strategic importance to the US, the factor of South Africa being a proven and committed Western ally in terms of global conflict, and its opposition to

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35. Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 344; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, pp. 194 – 195; D. Prinsloo, *United States foreign policy and the Republic of South Africa*, p. 59.

36. Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 347; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, pp. 195 - 196; D. Prinsloo, *United States foreign policy and the Republic of South Africa*, p. 47.

communism.<sup>37</sup> Another explanation for the US' positive stance towards South Africa can be that the overall foreign policy of the US in the immediate postwar years was marked by caution, compromise and the tendency to maintain a low profile. The US furthermore reasoned that the United Nations was not competent to intervene in the domestic matters of South Africa, or any other country for that matter.

The season of change was at hand, however, and the winds announcing this season started to blow a bit more fiercely in the late 1950's. The first factor announcing the change was the growing civil rights movement in the US, which strove for greater attention to the issue of race and political equality for African Americans specifically. It has long been realized that social movements play a huge role in organizing challenges to political institutions. Yet, for many years it was seldom adequately examined how these movements influence the foreign policy-making process. The fact is that these movements, which previously might have been unrepresented, are often introduced to the foreign-policy making process through the emergence of new policy problems, the breakdown of consensus on certain issues, and changes in the global environment. In this regard, it can be asserted that the anti-apartheid movement in the US developed over several decades in the second half of the twentieth century as a result of concern over the South African Government's policy of apartheid. The anti-apartheid movement can therefore be regarded as a natural extension of the US's concern about civil rights and racial justice into the international sphere. This concern was brought about in part by the increasing power and prominence of elected African-American officials and the discovery of new methods to influence corporate policy by liberal religious groups.<sup>38</sup>

Anti-apartheid activists in the US pursued their concerns within a variety of groups, arenas and actions, e.g. civil rights organizations, peace movements, labor unions, financial management groups, local and state legislatures, churches, and colleges. It can be noted that the mere fact that such a national movement emerged in the US, was an indication of the birth of a strong feeling of revulsion against the official policies of the South African Government and an omen of what the future could hold. Indeed, in

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37. R.W. Walters, *The Formulation of United States policy toward Africa, 1958 - 1963*, pp. 331, 334; J. Nessen, The United States - Still arming Apartheid, *Southern Africa*, November 1978, p. 4; S.S. Gay, *US National Security policy and sanctions: The US arms embargo against South Africa*, p. 4; D. Prinsloo, *United States foreign policy and the Republic of South Africa*, p. 56.

38. D.R. Culverson, The politics of the anti-apartheid movement in the United States, 1969-1986, *Political Science Quarterly* 111(1), p. 127; R.K. Massey, *Loosing the bonds: The United States and South Africa in the Apartheid years*, pp. xxvi-xxvii.



December 1957, anti-apartheid activists held a public demonstration to denounce apartheid and to call attention to South Africa's refusal to sign the United Nations Declaration on Human Rights. Shortly afterwards, US civil rights activists tried to follow suit in Johannesburg, but the attempt failed. Nonetheless, these protest demonstrations started to occur more regularly, and slowly focused official attention on the issue of the racial inequality not only in the US, but also in South Africa.<sup>39</sup>

The above factor had a direct link with another significant development that would cause strain to US-South African relations, namely the change in the African political arena from the late 1950's, when a growing number of African countries gained independence from white colonial rule. Each of the new independent African states assumed its place in the United Nations General Assembly, thereby becoming the largest geographical voting bloc in the organization. Driven by their common bond of struggle against colonial rule, they focused on the apartheid policy of the South African Government. The result was a spate of resolutions against the latter in the United Nations. The US abstained or voted against these resolutions in the majority of cases in the late 1950's and early 1960's, in terms of the abstention rule instituted by Dean Acheson, as discussed. But cracks in the goodwill of the US towards South Africa nonetheless slowly started to appear, for the reason that the US suddenly found itself in a dilemma. On the one hand, it wanted to maintain the goodwill of the South African Government, mainly for its strategic and anti-communist benefits, while on the other hand it realized that it would have to cultivate the favor of a growing and potentially decisive African voting bloc in the United Nations.<sup>40</sup>

In 1958, a separate Bureau of African Affairs was formed within the US Department of State, and Sub-Saharan Africa suddenly became a distinct item on the US foreign policy agenda. Although this Bureau was the smallest and least prestigious of the regional bureaus, it was soon in a position to tackle African problems in regional terms. Its most important function became the maintenance of smooth and stable US relationships with African countries. Eventually, the majority of the members of the Bureau became most sensitive to the importance that African countries attached to opposing the South

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39. P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, pp. 196 - 197; D. Prinsloo, *United States foreign policy and the Republic of South Africa*, p. 71.

40. L.E.S. de Villiers, *United States sanctions against South Africa*, pp. 11-14; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 197; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 346.



African apartheid system, leading to a greater questioning of US-South African relations in the years to come.<sup>41</sup>

The early effects of all the above changes were apparent by 1958. On 30 October 1958, the US abandoned its rule of abstention on resolutions on the apartheid policies of the South African Government, by voting for the first time for a United Nations General Assembly resolution expressing "*regret and concern*"<sup>42</sup> over the mentioned policy. A similar resolution was also supported in 1959. However, these resolutions, although indicative of a change in the US policy towards South Africa, were quite weak. The policy of the US towards South Africa only came under real fire after the Sharpeville incident. That massacre and the subsequent upheavals in South Africa had far-reaching effects internationally. The image was painted that a peaceful, unarmed crowd of black people who merely wanted to practically show their unhappiness with the oppressive laws under which they had to go about their daily lives, was brutally gunned down by bloodthirsty policemen. The South African Government was widely condemned by the media, various political organizations, governments and prominent individuals. The US Department of State issued a strong rebuke. In the United Nations, although the policy of apartheid was included as a permanent discussion point on the General Assembly's agenda since 1952, its actions rapidly increased in frequency after Sharpeville.<sup>43</sup> Ten days after the incident, the policy of apartheid was discussed for the first time ever in the United Nations Security Council at the request of 29 Asian and African states, as a "*situation arising from the peaceful demonstrations against racial discrimination and segregation*"<sup>44</sup> in South Africa. The Security Council issued a resolution that stated that the situation in South Africa was leading to international friction, and, if the policy of apartheid continued, international peace and security might

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41. R.W. Copson, *Africa Background: History, US policy, principal Congressional actions*, p. 13; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 346; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 197.
  42. As quoted in P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 198.
  43. K. Danaher, "Peaceful Change": A critique of policy themes in United States-South Africa relations, *TransAfrica Forum*, Fall 1983, p. 60; J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, pp. 124-125.
  44. As quoted in United Nations, *Countries of the World*, Chapter 2F.

be endangered. The South African Government was therefore called upon to abandon its policy of apartheid. The US fully supported this resolution.<sup>45</sup>

But, even though the US strongly voiced its dismay with the Sharpeville incident in the Security Council, it was not yet prepared to turn its back on South Africa by practically intervening in the latter's domestic affairs. Indeed, military relations between the two countries were even strengthened in September 1960, when the US National Aeronautics and Space Administration (NASA) officially announced the establishment of three tracking stations in South Africa for the monitoring of both US and Soviet satellites.<sup>46</sup> In the view of Schraeder, this "*was indicative of a general consensus within the US national security bureaucracies that politico-strategic concerns outweighed any potential drawbacks of association with the apartheid government of South Africa.*"<sup>47</sup> In the longer term, however, the Sharpeville incident did act as a catalyst to a more practical approach by the US in its condemnation of apartheid. Immediately after the incident, the South African Government directed its defense expenditure mainly to the suppression of internal unrest and the curbing of potential insurgency movements. This provided a significant boost to the Afro-Asian nations and anti-apartheid movements worldwide in their efforts to bring an end to apartheid. Traditional arms suppliers to South Africa, the US amongst them, came under intense fire from internal public opinion and the Afro-Asian countries. In numerous heated meetings of the United Nations General Assembly, the Afro-Asian nations called for a complete trade boycott and arms embargo to force an end to the apartheid Government of South Africa.<sup>48</sup>

By June 1963, the Kennedy Administration had realized that it now stood face to face with a new and decisive phase in the apartheid issue. The reasons behind this realization included: international pressure; a process of segregation in the US; heightened interest in Africa as a result of the rapid independence of many of the

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45. United Nations, *Countries of the World*, Chapter 2F; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, pp. 173-174; J. Grobler, *A decisive clash? A short history of Black protest politics in South Africa, 1875-1976*, p. 125.

46. P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 198; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 346; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 54.

47. As quoted in P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 199.

48. M.S. van Wyk, *The 1963 United States arms embargo against South Africa: institution and implementation*, pp. 20-23; J.P. McWilliams, *Armscor: South Africa's arms merchant*, pp. 10 - 11, 13.

African states; and the formation of the Organization of African Unity (OAU) earlier in 1963. The formation of the OAU marked the establishment of an organized political force in Africa. The Kennedy Administration had to decide on action against South Africa if it wanted to preserve its influence with the newly independent African states. On the other hand, Kennedy still feared losing the long-standing strategic importance and anti-communistic support of South Africa. The answer was a compromise decision. On 2 August 1963, the Kennedy Administration announced in the UN Security Council that it had decided to prohibit the sale of all arms and military equipment to South Africa after the end of 1963, pending an end to the apartheid policy of the South African Government. However, they would continue to oppose mandatory sanctions against South Africa, as they still regarded it as “*both bad law and bad policy*”<sup>49</sup> that would only result in hardship for all the people of South Africa, including those who were already suffering under the policy of apartheid.<sup>50</sup>

For the remainder of the 1960s, nothing really dramatic happened to further alter the US policy toward South Africa. Lyndon Johnson succeeded Kennedy as US President after the latter was assassinated. In general, Johnson maintained the previous outlines of US policy toward South Africa. He did however strengthen the arms embargo in January 1964 by announcing a unilateral refusal to sell “grey area” material to South Africa, and in 1967 annoyed the South African Government by ordering the aircraft carrier *U.S.S. Roosevelt* not to make its scheduled shore leave stop in Cape Town. In the United Nations, the US generally supported the requests of the African states that South Africa relinquishes its mandate of control over South West Africa (Namibia). On a more positive note for South Africa, the US in 1967 refused to join the United Nation’s Council for Namibia, which was pressing for more radical action against South Africa. Also, CIA contacts continued quietly throughout the Johnson Administration, and the nuclear energy agreement between the US and South Africa was renewed in 1967.<sup>51</sup>

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49. As quoted in Anonymous, US tells U.N. it will halt arms sales to South Africa, *The New York Times*, 3 August 1963, p. 1.

50. Kennedy Presidential Library (Boston), Papers of President John F. Kennedy, File: Schlesinger WH-1: *Secret letter* by G. Mennen Williams to Secretary of State, 12 June 1963; T.J. Noer, *Cold War and Black Liberation: The United States and White rule in Africa, 1948 – 1968*, p. 144; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, pp. 9, 52-53; Anonymous, US tells U.N. it will halt arms sales to South Africa, *The New York Times*, 3 August 1963, p. 6; M.S. van Wyk, *The 1963 United States arms embargo against South Africa: institution and implementation*, pp. 23-36.

51. Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, pp. 349-350; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 54.

In 1969, a Republican Administration under Richard Nixon replaced Johnson's Democratic Administration in the US, thereby ushering in an effort to change both the style and substance of US relations with South Africa. This effort was explained in a National Security Study Memorandum, NSSM 39, one of 85 such memorandums ordered by Nixon's national security advisor, Henry Kissinger, as part of a review of US foreign policy. The primary focus of Kissinger was still dominated by managing the US relationship with the Soviet Union within the framework of the Cold War, but greater reliance was now also placed on finding reliable local allies worldwide. In this context, the apparent stabilization of the pro-apartheid Government in South Africa seemed to fulfill just such a role. NSSM 39 listed six different policy options for US policy in Southern Africa, of which Option Two was eventually chosen by the Nixon Administration: *"The whites are here to stay and the only way that constructive change can come is through them. There is no hope for the blacks to gain the political rights they seek through violence, which will only lead to chaos and increased opportunities for the communists."*<sup>52</sup> This indicated that the Nixon Administration would seek to secure continued contact and dialogue with the white minority government in South Africa, i.e. a policy of containment, with the major emphasis on the white minority government in South Africa being a key ally against communist expansion.<sup>53</sup>

NSSM 39 was not publicly announced, but was eventually leaked to the press. However, before this happened, several events made it clear that a shift in US policy toward South Africa had taken place. For example, in contrast with Johnson's tightening of the arms embargo in 1964, grey-area sales involving helicopters, light planes, troop transport vehicles and communications equipment were now approved by the Nixon Administration. On the economic side, long-term Export-Import Bank financing restrictions were relaxed, and the neutral attitude of neither encouraging nor discouraging investment in South Africa, was replaced by encouragement of US firms to invest, although with the requirement that they adopt progressive policies toward their employees when they did so. In the United Nations, the US abstained every time the issue of South West Africa (Namibia) was discussed and the condemnation of apartheid was demanded. However, in April 1974, Portugal's control of its two Southern African

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52. As quoted in P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies* 14, 1988, p. 184.

53. P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies* 14, 1988, pp. 183-184; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, pp. 350-352.

colonies, namely Angola and Mozambique, was shattered when a coup took place in Lisbon. Angola was subsequently plunged into a bloody civil war. This, together with other world issues like the collapse of the pro-American government in South Vietnam, American failure in the Vietnam war and withdrawal from South East Asia, the rise in oil prices after the 1973 Middle East War, the Watergate Scandal and Nixon's resignation in 1974, and the Soweto uprising in South Africa in 1976 and its aftermath in which more than 600 youths were killed, plunged the US Government's policies towards South Africa into a crisis.<sup>54</sup>

The resignation of Nixon and the inexperience of his successor, Gerald R. Ford, left Secretary of State Henry Kissinger as the dominant force in the re-evaluation of the US foreign policy towards South Africa. Kissinger found himself in the midst of a period of violent political upheavals against white colonial rule in Angola, Mozambique and Rhodesia. In addition, South Africa refused to let go of its mandate of South West Africa (Namibia), which it had administered since 1919. The territory became the object of a protracted battle between the United Nations and South Africa. Since the early 1950's, the question of independence for South West Africa (Namibia) was placed on the agenda of every meeting of the United Nations.<sup>55</sup>

Kissinger faced a dilemma, namely that the US actually had very narrow options with regard to its foreign policy toward Southern Africa, i.e. either revolutionary changes which were said to be antithetical to US interests, or maintaining the status quo, which was identified with stability and US interests. Further deepening his dilemma, according to Magubane<sup>56</sup>, was how to defend the white Government in South Africa without alienating African opinion and offending black Americans. Furthermore, the US and its allies had to take into account the anti-apartheid activists, who wanted the US to disengage from South Africa, as well as the African states and the world opinion. The

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54. D.R. Culverson, The politics of the anti-apartheid movement in the United States, *Political Science Quarterly* 111(1), Spring 1996, p. 131; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, pp. 352-353; P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies* 14, 1988, p. 185; P. Gleijeses, *Conflicting Missions: Havana, Washington, and Africa, 1959-1976*, pp. 229-230.

55. D.R. Culverson, The politics of the anti-apartheid movement in the United States, 1969-1986, *Political Science Quarterly* 111(1), pp. 131-133; R.K. Massie, *Loosing the bonds*, p. 373; K. Danaher, "Peaceful change": A critique of policy themes in United States-South African relations, *TransAfrica Forum*, Fall 1983, p. 52; P.J. Schraeder, *United States foreign policy toward Africa, Incrementalism, crisis and change*, pp. 213-214; K. Danaher, South Africa, US policy, and the Anti-Apartheid Movement, *Review of Radical Political Economics* 11(3), 1979, p. 43.

56. B. Magubane, United States-South African relations and the implications for black liberation, *The Journal of Ethnic Studies* 11(1), 1983, p. 119.

danger was that open cooperation between the US and South Africa would alienate African opinion and lead to a further strengthening of ties between the Southern African liberation movements and the communist countries, including Fidel Castro's Cuba. In fact, Kissinger feared that Southern Rhodesia would become a target for direct Soviet-Cuban communistic intervention, similar to the situation prevailing in Angola since the end of 1975. He was convinced that the turmoil in southern Africa had become an important piece of the geopolitical game.<sup>57</sup>

Since US military intervention in Southern Africa was not a viable option, Kissinger resorted to diplomacy in an effort to halt the advances of communism in the region. The primary aims of the Kissinger's diplomacy policy was threefold: first, to restore US influence in Southern Africa; second, to reverse Soviet-Cuban infiltration in the area; and third, to implement his policies according to their design. Kissinger sought to make the South African Government an important partner in the negotiating process with Southern Rhodesia. He shaded his words very carefully: "*Our policy toward South Africa is based upon the premise that within a reasonable time we shall see a clear evolution towards equality of opportunity and basic human rights for all South Africans ... In the immediate future, the Republic of South Africa can show its dedication to Africa – and its potential contribution to Africa – by using its influence ... to promote a rapid negotiated settlement for majority rule in Rhodesia.*"<sup>58</sup> Basically, what this statement signaled was that the US would give the South African Government time to enact a mild program of economic and social reform in exchange for cooperation on the Rhodesian matter. Interestingly, political rights for black people were not mentioned. However, in an effort to lighten any criticism that such cooperation might draw, Kissinger stated that he was of the opinion that South Africa would, if pressurized, become more isolated and obstinate to change, and might decide to provide stronger support to the white Rhodesian Government, thus worsening the situation in that war-torn country.<sup>59</sup>

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57. B. Magubane, United States-South African relations and the implications for black liberation, *The Journal of Ethnic Studies* 11(1), 1983, p. 119; R.K. Massie, *Loosing the bonds*, p. 390; P. Gleijeses, *Conflicting Missions: Havana, Washington, and Africa, 1959-1976*, pp. 290-291.

58. As quoted in Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 354.

59. P.J. Schraeder, *United States foreign policy toward Africa, Incrementalism, crisis and change*, pp. 213-214; M.T. Kaufman, US considering new strategies in its policies toward South Africa, *The New York Times*, 15 May 1977, p. 3; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 29; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 354.



From April 1976 onwards, Kissinger spend many hours traveling in an effort to enact his new approach. At the end of June 1976, he met South African Prime Minister Vorster in Bavaria to discuss the situation in Rhodesia.<sup>60</sup> One could reasonably ask why Vorster was willing to meet with Kissinger to discuss a transfer of power from a white government to a black one, while he had declared on several occasions that the South African Government was totally opposed to power-sharing between black and white people. Vorster explained that the principal reason for his cooperation with Kissinger was the defeat of communism, which he believed was the main force behind the black guerilla movements operating in Southern Africa.<sup>61</sup>

After the initial meeting in Bavaria, Kissinger and Vorster agreed on another meeting in Zurich, Switzerland in September 1976. By that time, the Soweto riots in South Africa had spread despite strong action by the South African Police and the SADF. Schools, offices, shops and public buildings in black areas were destroyed in arson attacks, and the death toll rose to around 500, many of whom were black schoolchildren. On the eve of his departure to Zurich, Kissinger promised to exert pressure to bring about change in South Africa as well as in Rhodesia and South West Africa (Namibia). Vorster immediately responded hotly, declaring that South Africa did not need to be prescribed how to conduct its internal and external policies. Nonetheless, the meeting in Zurich went ahead, and in the ensuing months, Kissinger continued pressing for progress on both the Rhodesian and South West Africa (Namibian) questions.<sup>62</sup>

On 3 November 1976, the US declared in the United Nations that the internal structure of South Africa was incompatible with any concept of human dignity, and should be condemned. In addition, the US would use what influence it had to bring about peaceful change, equality of opportunity, and basic human rights for all in South Africa. To that end, the US would continue to rigorously enforce its comprehensive arms embargo against South Africa, imposed in 1963, as well as strongly urge the South African Government to take the necessary steps to dismantle the apartheid system. To strengthen this position, the US accepted, without objection, a General Assembly

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60. R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 30; R.K. Massie, *Loosing the bonds*, p. 392.

61. L.E.S. de Villiers, *United States sanctions against South Africa*, p. 97; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 354; R.K. Massie, *Loosing the bonds*, p. 392.

62. L.E.S. de Villiers, *United States sanctions against South Africa*, pp. 96-97.

resolution concerning solidarity with South African political prisoners. However, stronger measures were still opposed – it voted against a draft resolution concerning a mandatory arms embargo against South Africa under Chapter VII of the United Nations Charter, which would have declared South Africa a threat to international peace. The US stated that it was not convinced that the invocation of this Chapter against South Africa for its apartheid policies was appropriate at that time. At the same time, it also voted against a draft resolution by the Special Committee Against Apartheid, which would have imposed partial economic sanctions against South Africa. The US felt that such a decision could only be taken by the Security Council, and, moreover, that the facts concerning South Africa did not warrant such a resolution.<sup>63</sup> Thus, although verbally South Africa was strongly condemned, practically the US delegation to the United Nations adhered to Kissinger's policy of going light on South Africa.

But Kissinger's new policy was doomed to failure. He failed to bring the South African Government and SWAPO together for discussions on the independence of South West Africa (Namibia), although he managed to bring the Rhodesian parties together in Geneva in November 1976. These talks continued well into December 1976, but in the end they broke down. Kissinger ascribed the failure to black Africa who refused to be influenced, as well as to the defeat of Gerald Ford by Jimmy Carter in the elections in November. However, shifting the blame was not so simple. In fact, the black African states thought they could negotiate a better deal with a potential Carter administration, and, even more important, they totally disapproved of the extent of the dialogue between Kissinger and the South African Government in the whole affair. This also proved to be a deciding factor for the American people in the elections in November 1976, when Kissinger's foreign policy was used as a political tool for domestic positioning. In fact, Kissinger's efforts produced no tangible results for Ford who faced a major re-election battle. Instead, it enhanced the perception that the Ford Administration was on the wrong side of a race war in Southern Africa, for which there seemed to be limited prospects for an immediate solution.<sup>64</sup>

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63. USUN, United States urges peaceful change in South Africa: Statements made in the U.N. General Assembly on 3 November 1976, *Department of State Bulletin*, 17 January 1977, pp. 48-50; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00727: *Telegram*: Secretary of State to American Embassy, Dublin, 30 January 1977.

64. Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 355; L.E.S. de Villiers, *United States sanctions against South Africa*, p. 99; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 31; D.R. Culverson, The politics of the anti-apartheid movement in the United States, 1969-1986, *Political Science Quarterly* 127(23), p. 131.



In the Republican Party's presidential campaign, Ford initially found himself challenged by the former Governor of California, Ronald Reagan. Reagan blasted Kissinger's approach and accused Ford of losing Angola to the communists and selling out the white Rhodesians. He then continued to say that as president, he would consider sending US troops to Rhodesia to defend the white minority. However, this approach was even more unacceptable for the anti-apartheid electorate. On the other hand, the Democratic Party with Jimmy Carter as their candidate for President adopted a platform severely critical of US-South African relations. It called for a more stringent arms embargo against South Africa, the denial of tax credits for US corporations operating in South West Africa (Namibia), and the withdrawal of tax credits for US corporations based in South Africa that supported apartheid policies or practices.<sup>65</sup> Carter himself was of the opinion that the US should do something to turn the racial injustices in Southern Africa around, i.e. the US should reformulate its foreign policy "*towards unequivocal and concrete support of majority rule in Southern Africa, recognizing that our true interests lie in peaceful progress towards a free South Africa for all South Africans, black and white*".<sup>66</sup>

Carter's promise of a "new" policy with regard to South Africa provided an opening for the anti-apartheid and human rights activists in the US to exploit greater public awareness and present a broader platform for their efforts. This "new" policy partly derived from Nixon and Kissinger's policy failures. Kissinger's attempts in 1976 at shuttle diplomacy in Southern Africa tumbled in the face of the escalating uprisings in the region against white minority rule. His objective of trying to prevent communist gains at all costs simply did not satisfy the anti-apartheid and human rights activists as being the answer to the turmoil.<sup>67</sup> They wanted a much stronger, strict approach to South Africa, and Carter promised them just that. Accordingly, they were extremely grateful when Carter was elected President of the US at the end of 1976.

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65. R.K. Massie, *Loosing the bonds*, pp. 390-391; P.J. Schraeder, *United States foreign policy toward Africa, Incrementalism, crisis and change*, p. 215; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 32.

66. As quoted in K. Danaher, South Africa, US policy and the Anti-Apartheid Movement, *Review of Radical Political Economics* 11(3), 1979.

67. D.R. Culverson, The politics of the anti-apartheid movement in the United States, 1969-1986, *Political Science Quarterly* 111(1), p. 132.

For the first few months after becoming president, Carter wanted to maintain the status quo of US policy towards South Africa. However, he was almost immediately forced to find his feet in Southern Africa-related matters. This can mainly be ascribed to the rapidly increasing pressure in the United Nations for independence for South West Africa (Namibia), as well as internal pressure from both the US Congress and the US general public. Thus, from the outset, the Carter Administration followed a policy of exuberant public posturing against the apartheid policy of the South African Government. It was soon clear that South Africa would be a prime target of Carter's foreign policy, especially when the black civil rights activist, Andrew Young, was appointed as US Ambassador to the United Nations. Young was central to the Carter Administration's policy towards South Africa. He raised the hopes of African countries by proclaiming that a binding, although not mandatory arms embargo against South Africa was the irreversible policy of the US as part of an acceptable solution to the Namibia question, as well as the policy of apartheid.<sup>68</sup> In the end, in November 1977, a mandatory arms embargo was instituted against South Africa, thereby ushering in an era of boycotts and sanctions against the South African Government that would continue well into the 1990s.

### 1.3 PROBLEM STATEMENT AND CHAPTER BREAKDOWN

Keeping the abovementioned background in mind, the study will concentrate on addressing the following questions:

Why did the US under the Carter Administration institute the mandatory arms embargo against South Africa in 1977? Did it signify a more hard lined change in US foreign policy with regard to South Africa, or was it intended only as a limited measure to appease the Afro-Asian countries, which continuously pleaded for extensive sanctions against South Africa because of the latter's racial policy of apartheid, while on the other hand maintaining the continued support of the South African Government with regard to anti-communism?

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68. A.J. DeRoche, *Andrew Young: Civil Rights Ambassador*, p. 71. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00735: *Telegram*: United States Embassy, Pretoria to Department of State, 23 February 1977; R.W. Copson, *Africa Background: History, US policy, principal Congressional Actions*, p. 13; D. Prinsloo, *United States foreign policy and the Republic of South Africa*, p. 106.

After the institution of the arms embargo is discussed, it is important to also discuss the US implementation thereof, in order to determine if the embargo's objectives were met or not. This takes one to the following question: what regulations did the US introduce to enforce the arms embargo, and to what extent did the various US Administrations from 1977 to 1997 adhere to or change the regulations? Furthermore, was the adherence or changes linked to their foreign policy objectives with regard to South Africa?

Lastly, it is only natural that the enforcement of the arms embargo by the US must have led to a reaction from South Africa. The question that can be asked, therefore, is whether it was primarily in a defiant reaction to the implementation and enforcement of the arms embargo by the US that South Africa turned to clandestine means to circumvent the embargo, and in the end, despite the arms embargo, succeeded in the build-up of a world-renowned defense industry.

In short, the purpose of this study is thus an attempt to determine the objectives of the US in instituting the arms embargo, whether these objectives were met through the implementation and enforcement of the arms embargo, and whether the South African establishment of a world-renowned defense industry signified the failure of the embargo to meet its objectives.

The abovementioned questions will be addressed within the following chapter breakdown:

- Chapter 1: Background, Problem Statement and Literature Review.
- Chapter 2: The institution of a mandatory arms embargo against South Africa.
- Chapter 3: The implementation of the mandatory arms embargo by the Carter Administration, 1977-1980.
- Chapter 4: The Reagan Administration: Constructive Engagement and the arms embargo, 1981 – 1984.
- Chapter 5: The implementation of the arms embargo during the second term of the Reagan Administration, 1985 – 1988.
- Chapter 6: Bush, the turn of the South African political tide and the arms embargo, 1989 – 1992.

Chapter 7: The Clinton Administration and the end of the arms embargo, 1993-1998.

Chapter 8: Summary and Final Conclusion.

#### 1.4 SIGNIFICANCE OF THE STUDY

The institution and implementation of the 1963 arms embargo by the US have already been addressed in a Masters degree study by the same researcher. The purpose of the doctoral study is a follow-up study of the Masters study, and will specifically focus on the institution and implementation of the 1977 mandatory arms embargo by the US until it was lifted in 1997.

The value of the topic lies in the fact that the arms embargo that the US imposed on South Africa in 1977, led to the first **mandatory** punitive measure ever instituted against a member state of the United Nations under Chapter VII of the United Nations Charter. Chapter VII authorizes the use of sanctions by the United Nations to enforce decisions by the Security Council in cases of international aggression or when a Government's actions are considered a threat to international peace. Prior to the 1977 arms embargo against South Africa, the United Nations instituted arms embargoes against the People's Republic of China (1951), North Korea (1951), the Congo (1960), Portugal (1963), Rhodesia (1965 and 1966) and South Africa (1963).<sup>69</sup> None of these embargoes were, however, mandatory. In other words, it was not binding for members of the United Nations. The fact that South Africa became the first country to be declared an international threat to peace under Chapter VII therefore indicates an important shift in the use of practical measures by the United Nations and indeed the US, who proposed the use of the measure in the Security Council. This change led to much discussion in the mid-1980's on whether such measures were effective. In these discussions, both the proponents and opponents of expanded sanctions against South Africa used the arms embargo as a model. In the end, it paved the way for a stream of economic sanctions instituted against South Africa by the US in the mid-1980's.<sup>70</sup>

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69. S. Landgren, *Embargo disimplemented: South Africa's military industry*, pp. 4-5; R. Leonard, *South Africa at war: White power and the crisis in southern Africa*, pp. 4-5.

70. M. Brozka, Arming South Africa in the shadow of the UN arms embargo, *Defense Analysis* 7(1), p. 21.

The implementation and enforcement of the arms embargo impacted upon the foreign policy of the US in various important ways. For example, full compliance with the embargo by the US Government would have demonstrated its commitment to end the policy of apartheid in South Africa. On the other hand, any relaxation of the arms embargo by the US Government would have been interpreted as a retreat from the commitment to eradicate the policy of apartheid. Also, the enforcement of the arms embargo by the US Government often raised the important question on the ability of major arms producers like the US to reduce the threat of global violence by controlling the flow of arms to potential belligerents. Lastly, implementation of the arms embargo by the US Government tested the latter's capacity to put measures in place to successfully block arms and related items being exported to the country against which the measure was imposed.<sup>71</sup> In the light of all that has thus been said, it is hoped that the evaluation of the US implementation of the embargo will lead to a better understanding of the role that South Africa played in the formulation of the US foreign policy with regard to Southern Africa in the years 1977 – 1997.

The importance of the study lies in the fact that the embargo directly led to the development of the South African arms industry as one of the biggest and most advanced in the Southern hemisphere, despite the fact that the arms embargo increased the prices of weapons significantly and thus made the procurement of weapons by the South African defense forces more complicated. This industry was built up over a period of more than 15 years, especially during the time that South Africa was involved in operations in southern Angola against the Angolan/Cuban/Soviet communist alliance and had to find new ways and equipment to counter the latter's sophisticated defense systems.<sup>72</sup> The South African Government was therefore often willing to pay high prices for the arms it desperately needed to maintain its position of power both in unrest-torn South Africa and the Southern African region. Furthermore, the domestic South African arms industry was in many cases built by way of clandestine trade in especially US designed weaponry. A further objective of the study is therefore to establish to what extent the US Government's implementation of the arms embargo was hampered by the illegal procurement of weapons by agents of the South African Government; in other words, the way in which the illegal procurement of weapons by South Africa

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71. M.T. Klare, Evading the Embargo: Illicit US arms transfers to South Africa, *Journal of International Affairs* 35(1-2), Spring/Summer 1981-1982, pp. 16-17.

72. S.J. Smith, The South African EW capability, *Armed Forces*, March 1994, p. 17.

problemized the formulation of a US foreign policy with specific regard to Africa. On the other hand, the South African Government sometimes procured US-designed weaponry on a quite legal basis, through third countries. For example, some sources draw a very specific triangle between the US, Israel and South Africa in the field of military cooperation.<sup>73</sup> This indicates an inconsistency in the US foreign policy of especially the 1980's, which further contributed greatly to the build-up of an internationally renowned South African arms industry.

In 1991, the clandestine trade in arms with South Africa led to an extended legal case by the US Government against seven South African citizens, the Armaments Corporation of South Africa (Armcor) and subsidiaries of Armcor. The case went on for several years and was only resolved when the Vice President of the new democratically elected South African Government in 1994, Thabo Mbeki, intervened in the matter and reached a satisfactory agreement with the Clinton Administration in 1997. Shortly afterwards, the Clinton Administration lifted the arms embargo against South Africa. The discussion of this whole process will contribute to a better understanding of the difficulties that the new South African Government after 1994 under leadership of Nelson Mandela faced in the solution of problems inherited from the apartheid Government, and the struggle in which they found themselves to enhance the image of South Africa not only in the broader world, but also in the US as the biggest institutor of sanctions against South Africa in the 1980's.

The Government-to-Government agreement between Mbeki and Clinton was reached with the view to normalize defense trade between the two countries. In terms of the agreement, Armcor had to implement an internal Compliance Program<sup>74</sup> with procedures to ensure that US origin defense articles, services and technical data would be transferred to Armcor with the necessary authorization from the US, would be properly tracked while in the possession of Armcor, and that all transfers to third parties would be authorized and shipped in accordance with requirements as stated by the US. As the US legal case against Armcor was a direct outflow of its illegal procurement and use of US-origin defense articles, this study will also attempt to bring

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73. Examples: B.M. Joseph, *Besieged Bedfellows: Israel and the Land of Apartheid*, 1988; S. Landgren, *Embargo disimplemented: South Africa's military industry*, 1989; S. Landgren, *Embargo disimplemented: South Africa's military industry*, 1989; F.J. Parker, *South Africa: Lost Opportunities*, 1983; S. Reiser, *The Israeli arms industry: Foreign policy, arms transfers and military doctrine of a small state*, 1984.

74. See Appendix V.

to light at least some illegal procurement incidents in which Armscor was involved. Full revelation of Armscor's dealings is unfortunately not possible, as the researcher was not allowed to view all of the company's documents in this regard, even though access was requested under the South African Freedom of Access to Information Act.

## **1.5 SCOPE OF THE STUDY**

The study will investigate the institution and implementation by the US Government of the mandatory arms embargo that was instituted against South Africa in 1977. The term 'arms' could be interpreted in various ways, for example conventional war-making tools and related items, or also including nuclear weapons or chemical or biological weapons. For the purpose of this study, arms would refer to conventional war-making tools and related items and nuclear technology, with only brief references to chemical or biological weapons. Including a detailed discussion of South African chemical or biological weapons in this study is not feasible, as each in its own right justifies a full masters or doctoral study and would therefore make this thesis too lengthy. Furthermore, information on such weapons or technology remains highly classified, therefore permission to access documents in this regard could be a very lengthy process, which would exceed the time allowed for the completion of this study.

## **1.6 RESEARCH METHODOLOGY AND LITERATURE REVIEW**

The research for the study is based primarily on archival documents, official government publications and newspaper reports, with limited references to books and journal articles. Due to the sensitive nature of the topic, the researcher did not think it advisable to make use of interviews. The supervisor agreed with this viewpoint. Potentially, this could have constituted a limitation of the study; therefore, it had to be determined whether the study would be feasible without interviews.

Researching a contemporary topic usually limits the availability of suitable source material, especially archival material. This was certainly the case with this study. Also, since the study specifically deals with the institution and implementation of the arms embargo by the US, it was essential to obtain primary documents from both US and South African origin. If only one country's material was used, the study would be subjective and one-sided, thus lacking the objectivity that characterizes a research study



based on thorough research. It also had to be determined whether the study would be feasible, and if so, whether the topic under study has not already been extensively researched. An intensive search was therefore launched into the availability of sources from both South African and US origin.

Research was firstly undertaken into the availability of books on the subject. However, no book could be found that specifically deals with the US implementation and institution of the embargo. Most of the literature studied deal with the 1977 United Nations arms embargo against South Africa, with reference to the adherence of the various member states. Some of these books however did prove valuable in their discussion of the adherence of the US to the broader United Nations embargo. One of these that proved especially valuable in the sense that it explains how the arms embargo aided the build-up of the South African arms industry, is that of S. Landgren, namely *Embargo disimplemented: South Africa's military industry*. A number of other books either contained a chapter on the US arms embargo, or discussed it in the light of another topic, for example the development of the South African arms industry. The most useful of these books are: McWilliams, J.P., *Armscor: South Africa's arms merchant*; Cook, J & Nathan, L. (eds.), *Society at War: The militarization of South Africa*; and NARMIC, *Automating Apartheid - US computer exports to South Africa and the arms embargo*.<sup>75</sup>

A most valuable book dealing specifically with the policy of the US toward South Africa prior to 1980, was written by a commission tasked by the Rockefeller Foundation to determine how the US could best respond to the problems posed by the South African Government's system of racial separation and discrimination. The commission had eleven members with diverse backgrounds, but nonetheless reputed in their various fields of employment, which included business, labor, universities, foundations, government service, and so forth. The fact that none of them was a specialist on Southern Africa, did not stand in the way of a thorough study. The book is based on well-researched facts, and a real effort for objectivity is clear throughout. It is entitled *South Africa: Time Running Out*, compiled by the Study Commission on United States Policy toward Southern Africa. Another book on the US policy toward South Africa, is entitled *US Foreign Policy and the Republic of South Africa*, written by Daan Prinsloo. This book was published in the late 1970s, putting it in the same time frame as the one

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75. Publication details of the books are provided in the bibliography at the end of this thesis.



written by the Study Commission. However, it lacks the volume and objectivity of that book, and the researcher is of the opinion that it tends to favor the South African Government. It was nonetheless very helpful in determining the South African view of the US policy towards it.

Another valuable book is that of Robert K. Massie, entitled *Loosing the bonds: The United States and South Africa in the Apartheid years*. It is a detailed, well-written book, based on thorough research, and the effort for objectivity is clear throughout. The book tells the story of how South Africa and the US became entangled in each other's struggle for justice. It is a comparative history, having at its core the issue of racial tension. It lifts out the efforts of anti-apartheid activists in the US and how it escalated until a climax in the latter part of the 1980's, when South Africa was hit by a wave of sanctions and the white electorate in the country agreed to let go of their monopoly on political power. It is useful because of very detailed discussions of South African issues that raised much emotion in the US, and how it worked together to raise tension in the relations between the two countries. The book was first published in 1997, and cover the early years of apartheid right through to the first democratically elected South African Government in 1994. Thus, the book is also useful because of its time span, which covers the various US Administrations that will be referred to in this research study.

Useful books that deals with US foreign policy with reference to South Africa, are: Chester Crocker, *High Noon in Southern Africa: Making peace in a rough neighborhood*; Richard E. Bissell, *South Africa and the US: The erosion of an influence relationship*; and Peter J. Schraeder, *US foreign policy toward Africa: Incrementalism, crisis and change*. These books were especially useful for their overviews of certain aspects of US foreign policy toward South Africa.

Secondly, some research reports and pamphlets were procured. Although the majority of these are quite one-sided, they were of some use. The most valuable is a research report by Gay, S.S., *US National Security policy and sanctions: The US arms embargo against South Africa*, which was undertaken for the Air War College, Air University, Alabama, in 1987. The following are pamphlets by anti-apartheid movements and individuals: COSAWR, *State of War, Apartheid South Africa's Decade of Militarism*, published in 1984; Sean Gervasi, *The US and the Arms Embargo against South Africa*:

*Evidence, denial and refutation*, published in 1978, and National Action/Research on the Military-industrial Complex (NARMIC), *Military exports to South Africa - A research report on the arms embargo*, published in 1984. Usable South African research reports include two documents compiled by Armscor, *Essentials of the Armscor Compliance Programme* and *SALVO: Krygkor 20 Armscor*.

Thirdly, research into journal articles was undertaken. Numerous of the journals studied contain articles that specifically address the issue of the arms embargo and the violation thereof. Others address the embargo as part of the foreign policy of the US with regard to South Africa. Most of the articles cover the period between 1977 and 1990, when negotiations for a democratic South Africa commenced. The majority are severely critical of either the US policy with regard to South Africa and/or the South African racial policy of apartheid, while others clearly favor only the South African or US point of view. Thus, although more than 50 journal articles have been analyzed, the majority could not be trusted as objective sources. On the other hand, these articles are valuable sources of information that cannot be ignored. For example, journal articles often contain statements that are not reported on anywhere else. This often spurred the researcher to embark on further research to prove the correctness or incorrectness of the statement. In such instances, the value and utmost importance of primary documents to prove statements made in journals or books were yet again realized.

The researcher fourthly made extensive use of primary documents, i.e., archival documents, newspaper reports and governmental or official publications. Concerning archival documents, a valuable collection of US-origin documents is held by the Academic Information Service (AIS) of the University of Pretoria, namely *South Africa, The making of US policy, 1962 - 1989*. It is a microfiche collection of documents from the US National Security Archives. The AIS has also procured a collection of videotapes dating 1977 onwards with speeches, policy announcements, news broadcasts, statements, etc. The videotapes were identified by the researcher in the search for archival material. Archival documents were also obtained from the Jimmy Carter Presidential Library in Atlanta, Georgia, during a research visit to the US. A number of declassified archival documents from the Ronald Reagan Presidential Library in Simi Valley, California, as well as the George Bush Presidential Library in College Station, Texas, were obtained via the Internet. However, the majority of the documents in the collections of these two presidents are still classified, but declassification has been

requested under the US Freedom of Information Act. As this process can take two to three years, these documents can form a major part of a postdoctoral study.

Archival documents from the South African side were mainly obtained from the Armscor archives in Pretoria. Access was granted under the South African Freedom of Information Act, with the restriction that Armscor must first view the thesis upon completion. If found to contain sensitive information that will be harmful to South Africa, Armscor or individual persons, the thesis will be classified. The Department of Defense (DOD) Info Centre in Pretoria has also granted access under the Freedom of Information Act. However, upon studying the relevant archival lists, it became clear that the collection contained hardly anything of direct relevance to this study. Further investigation of the DOD lists was therefore not pursued.

With regard to newspaper articles, a wide range of newspapers was investigated. Major South African newspapers include the *Beeld*, *Argus*, *Die Burger*, *The Citizen*, *The Pretoria News*, *The Star* and *Sunday Times*, amongst others, and major US newspapers include the *Christian Science Monitor*, *The New York Times*, *LA Times*, *Chicago Tribune* and the *Washington Post*, amongst others. Reports from these newspapers cover the whole embargo period.

Another very important source of primary documents that was investigated, is the category of governmental and official publications. Of particular value is the *Department of State Bulletin*, the monthly publication of the US Department of State (the name changed to the *Department of State Dispatch* in 1991). This publication has been studied in detail during a research visit to the US, and valuable material for almost every year that the arms embargo was in place, was obtained. Other official documents of much value are complete hearings held by members of the US Congress. The one hearing is on *US - South Africa relations: Arms embargo implementation*, which was held before the Subcommittee on Africa of the Committee on International Relations, House of Representatives, on 14 and 20 July 1977. The other hearing is on the *Enforcement of the US arms embargo against South Africa*, held before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, on 30 March 1982. On the South African side, a valuable document is the Department of Defense's *White Paper on Defense and Armaments Supply*, 1979. Other documents include publications by the United Nations, i.e. resolutions, policy documents, etc.

In the light of the above overview, it was established that although the study is contemporary in nature, enough reliable source material was available to make it feasible.

## CHAPTER 2

### THE INSTITUTION OF A MANDATORY ARMS EMBARGO AGAINST SOUTH AFRICA

#### 2.1 INTRODUCTION

Jimmy Carter was elected president of the United States of America in 1976, in the midst of a period of much regional political turmoil in Southern Africa. The main reason for this turmoil was violent political upheavals against white colonial rule in Angola, Mozambique and Rhodesia. According to Schraeder, the turmoil enveloped South Africa itself on 16 June 1976, when the South African security forces fired upon 15,000 black school children taking part in a demonstration in Soweto. On that day two students were killed, but the incident resulted in the worst violent riots and strikes ever in all of the major South African urban areas. In the months that followed, any possible international perceptions of the stability of the South African political arena were shattered when the violence left at least 575 people dead and 2,389 wounded. Carter entered office in the shadow of this upheaval. He was hailed as a crusader for human rights. Consequently, there was much anticipation among the growing US anti-apartheid movement and the African countries that an end to US-South African cooperation was in sight. This anticipation was enhanced when Carter's voiced his regret that he had not done much to support the struggle for black civil rights in the U.S., and that, if elected president, he would do anything in his power to rectify it.<sup>1</sup> Thus, it is clear that the Carter Administration ushered in a new emphasis on human rights in the domestic as well as foreign policy of the US. The aim of this chapter is to scrutinize the early months of the Carter Administration, and the reasons why the US under that administration supported a mandatory United Nations arms embargo against South Africa.

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1. P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 215; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 356; P.J. Rich, US containment policy, South Africa and the apartheid dilemma, *Review of International Studies* 14, 1988, p. 186.

## 2.2 CARTER AND SOUTH AFRICA: US POLICY REVIEWED

### 2.2.1 THE CASE OF HUMAN RIGHTS

The first indications of a change in US foreign policy surfaced when Carter announced in early 1977 that a commitment to human rights would be the cornerstone of his Administration's foreign policy.<sup>2</sup> In essence, it meant a reevaluation of the official US relations with other countries. He accordingly appointed strong proponents of racial equality in South Africa to positions of authority within the Department of State, namely the black human rights activist, Andrew Young, as US Ambassador to the United Nations; Cyrus Vance as Secretary of State; and Anthony Lake as Director for Policy Planning. According to Schraeder, these individuals were bound by a common desire to downplay the importance of the Cold War in their approach to understanding the conflicts of the African continent. They favored a more regionalist approach towards new relationships in which power was more diffuse, and which emphasized the internal economic, cultural, political and historical aspects of regional conflicts. But it would be Vance who would especially give form and substance to Carter's foreign policy. He was Undersecretary of Defense during the Kennedy and Johnson Administrations, and was therefore well informed about the situation in South Africa, especially as far as the institution and implementation of the 1963 arms embargo was concerned. He regarded the Kissinger approach as too narrowly rooted in terms of the Cold War geopolitical struggle. Instead, he was of the opinion that human rights abroad should be enforced through sanctions or the threat of sanctions, if necessary.<sup>3</sup>

Within a few weeks after inauguration, Carter established a Policy Review Committee under the chairmanship of the Department of State and directed them to undertake a review of US policy toward Rhodesia, South Africa and South West Africa (Namibia), to be finished by the end of January 1977. A number of tasks were assigned, of which the following had a direct relation to South Africa: A review of US policy toward South Africa, together with an analysis of options for future US posture toward that nation, in light of different possible US roles in the Rhodesian and South West Africa (Namibia)

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2. R.K. Massie, *Loosing the bonds*, p. 407.

3. A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, pp. 71, 74; R.K. Massie, *Loosing the bonds*, p. 407; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 215; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 356; L.E.S. de Villiers, *US sanctions against South Africa*, p. 118.

negotiations; and an examination of the likely reactions by the US Congress and the American public to various US policy options with regard to South Africa. In the end, the establishment of an independent Rhodesia would prove to be the primary African issue for the Carter Administration. It embarked on a major effort to resolve the conflict in the country, which indeed ultimately facilitated the transition to the new nation of Zimbabwe. This effort however limited how much the Carter Administration could work in South Africa.<sup>4</sup>

According to William Schauffele Jr., the Assistant Secretary of State for African Affairs<sup>5</sup>, the concern of the Carter Administration with Southern Africa differed in many respects from its interest in other parts of the world important to the US. Schauffele made it clear that the Carter Administration did not have a strategic interest in Southern Africa, as it did not wish to play a military role anywhere in Africa. (This signified a total new policy in this regard, when the CIA involvement in 1975 in Angola is taken into consideration). The Carter Administration also did not base the new policy on economic interests, although it hoped to retain access to the mineral wealth of Southern Africa. Instead, the Carter Administration's policies in Southern Africa were essentially founded on political interests, of which a concern for human rights and human dignity formed a significant ingredient. Thus, the general thrust of the policy review was to find ways of strengthening the commitment of the US to social justice and racial equality in Southern Africa, and of demonstrating that commitment in tangible and meaningful ways.<sup>6</sup>

The Carter Administration made it clear that the foreign policy review should be done with the focus on the broader context of the national interests of the US, which included a number of things: First, it had to be true to the ideals of the American nation, namely a commitment to human rights, to which Carter on many occasions stated his own personal commitment. Such a commitment required a firm and clear opposition to racial and social injustice wherever it existed. Therefore, if the US wanted to remain

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4. Carter Presidential Library and Archives (Atlanta), Presidential Review Memorandums, 1977 - 1981, PD 5, Southern Africa: *Memorandum*: Z. Brzezinski to Vice President and Secretaries of State and Defense, 21 January 1977; A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, p. 71; A.J. DeRoche, Standing firm for Principles: Jimmy Carter and Zimbabwe, *Diplomatic History* 23(4), Fall 1999, p. 657.
  5. In 1978, Schauffele was replaced with Richard Moose, Jr. as Assistant Secretary of State for African Affairs.
  6. W.E. Schauffele, Jr., United States relations in Southern Africa, *Department of State Bulletin*, 9 May 1977, p. 464; P.C. Habib, Southern Africa in the Global Context, *Department of State Bulletin*, 4 April 1977, p. 318; L.E.S. de Villiers, *US sanctions against South Africa*, p. 118.

true to its own convictions and not cast doubt on its commitment to social justice, it had to be engaged in Southern Africa. Secondly, the Carter Administration believed that the people of Africa held the key to the solution of African problems. The US therefore had to fully refrain from imposing its own ideas and solutions on Southern Africa, although it should use its political and economic influence and diplomatic offices to support racial and social progress. Thirdly, another reason for the Carter Administration's preference of African solutions to African problems was to avoid situations that would make Africa an arena for great-power rivalry, which happened in Angola. Racial discrimination and social and political injustice could breed prolonged violence, opening the door for foreign intervention and confrontation. The Carter Administration believed that its best defense against such possibilities was to support policies that would limit potential conflict. Finally, the Carter Administration believed that the US had a stake in Southern Africa because of a firm belief that political harmony must be achieved in diverse societies like the US, and that ethnic, racial and religious differences do not constitute a cause for discrimination and violence.<sup>7</sup>

Carter and Vance spent their first two months in office seeking a way to balance their foreign policy between the tacit US-South African cooperation of the past and an outright break with South Africa. Their first move was proposing that the members of the United Nations Security Council approve a Declaration of Principles opposing racism in Southern Africa. This was followed by a secret list drawn up by the Department of State in February 1977 in which steps that the US Government could take against South Africa, were outlined, e.g. withdrawing US military attachés in South Africa, ending the exchange of intelligence information, reducing Export-Import Bank loan guarantees, refusing visas to South Africans, etc. However, the policy at this stage did not include punitive actions designed to pressurize the South African Government. The State Department's Africa Bureau did favor a decrease in military cooperation to underscore the removal of South Africa from the list of countries with which the US had "normal" relations, but others were opposed to any form of disengagement. The Department of Defense for example argued that further restrictions on military cooperation would have severe repercussions on intelligence collection activities. They were supported in this view by the CIA, who in turn questioned the wisdom of

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7. P.C. Habib, Southern Africa in the Global Context, *Department of State Bulletin*, 4 April 1977, pp. 318-319; W.E. Schauffele, Jr., United States relations in Southern Africa, *Department of State Bulletin*, 9 May 1977, p. 464.



pressurizing a valued regional power like South Africa at the same time that the communist pressures in Southern Africa required access to South Africa's vast intelligence network. For the first few months of the Carter Administration, the influence of the opponents of disengagement proved to be the stronger view, which could be seen clearly in a Presidential Directive issued in March 1977. In this directive, Carter rejected immediate punitive measures against South Africa, and instead stated that practical steps at downgrading relations between the US and South Africa were only to be enacted in the case of South Africa failing to make significant progress towards power sharing with the black majority.<sup>8</sup>

### 2.2.2 THE ROLE OF ANDREW YOUNG

While Carter and Vance worked on a new foreign policy towards South Africa, Andrew Young prepared himself for assuming the presidency of the Security Council for a month, where he would face a new demand for a mandatory arms embargo against South Africa. This demand was agreed upon by the African countries, which declared that the way the US would vote on the issue would be regarded as a test of the sincerity of the Carter Administration. The embargo resolution would be one of four that had been drafted for submission to the Security Council by the African nations. The African nations hoped to elicit the support of Young, who was a human rights activist with explicit links to the American civil rights movement, and who had stated during the first month of the Carter Administration that it was likely that the Administration would energetically pursue a very aggressive policy towards majority rule in all of the Southern African countries. Young also stated his support of a possible arms embargo against South Africa, but he did not think that economic sanctions would form part of the Carter Administration's policy towards South Africa, as it seldom had the desired results.<sup>9</sup>

Young's appointment in the Carter Administration was received with uneasiness on the South African side. The South African Government became even more uneasy when it

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8. R.K. Massie, *Loosing the bonds*, pp. 407-408; P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, pp. 216-217; Carter Presidential Library and Archives (Atlanta), Presidential Directives, 1977 - 1981, PD 5, Southern Africa: *Directive*, J. Carter to Vice President and Secretaries of State and Defense, 9 March 1977.

9. Anonymous, Young expects new Administration to 'be aggressive' in advancing majority rule in Southern Africa, *The New York Times*, 3 January 1977, p. 7; Anonymous, Embargo of South Africa to be pressed in U.N., *The New York Times*, 19 March 1977.

was announced that he would assume the presidency of the Security Council for a month in March 1977. But Young even antagonized the African nations somewhat, despite the hope placed in him by them, because of the way in which he expressed his views on South Africa. These views were often contradictory. Initially, in meetings with representatives from the African nations at the United Nations, he raised their expectations by proclaiming that a binding arms embargo against South Africa was an irreversible policy pursued by the Carter Administration. However, when he was called upon to fulfill these expectations in late February 1977, he suddenly took on a cautious note, asking if it was wise at that stage to support a mandatory arms embargo, and if it was the sort of prelude that would encourage an acceptable solution in South West Africa (Namibia). This change of tack makes one wonder whether Young had suddenly realized the considerable political and legal consequences that the institution of a mandatory arms embargo held. One effect was that the embargo would have to be enforced under Chapter VII of the United Nations Charter, which would in turn give substance to the claims of the African nations that South Africa was a threat to international peace and security. That, in turn, would support the frequent Third World demand for international action against South Africa by way of a "Unite for Peace" resolution in the General Assembly, where the US had no power of veto as it had in the Security Council. The South African Government however did not trust Young's change of tack one bit. They regarded it as Young playing all his cards in an effort to find his feet in the United Nations, with whose dealings he was, as yet, unfamiliar. He was also still unfamiliar with diplomacy, according to the South African delegation to the United Nations.<sup>10</sup>

Despite the contradictory statements, Young remained very outspoken against apartheid. Yet, in a press interview before assuming the Security Council presidency, that he had a great deal of sympathy for the white minority Governments in Southern Africa. Instead, the US had to use its tremendous influence to find ways of obtaining majority rule in Southern Africa.<sup>11</sup> In April 1977, he contradicted this stance as well as his initial opposition against sanctions when he told a British television team that

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10. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00735: **Telegram**: United States Embassy, Pretoria to Secretary of State, 23 February 1977; Anonymous, Weapon, Time, Place – All wrong (Editorial), **Los Angeles Times**, 3 March 1977, Part II, p. 4.

11. A.J. DeRoche, **Andrew Young: Human Rights Ambassador**, p. 71; Anonymous, Embargo of South Africa to be pressed in U.N., **The New York Times**, 19 March 1977, p. 4; K. Teltsch, Brother Young welcomed at U.N., **The New York Times**, 22 March 1977, p. 10; p. 4; R.K. Massie, **Loosing the bonds**, p. 410.

economic sanctions might be a legitimate nonviolent method to convince the South African Government to end apartheid. In his own words: *“At some point we’ve got to come to the conclusion that we’re no longer going to finance apartheid. When we come to that conclusion, its amazing how quickly the South Africans will come to their senses.”*<sup>12</sup>

Vance agreed with Young’s sentiments, declaring shortly after he was appointed that the Carter Administration was undertaking to stress by word and deed its opposition to the system of apartheid. However, as stated above, Vance and Carter were still trying to find a balance in their approach to South Africa. Young did not make it easier for them, though. He elicited quite a flurry of controversy around some remarks he made in the early months of his appointment, often forcing Vance to hastily issue retractions or corrections. For example, Young stated that South Africa could force Rhodesia to negotiate, on which Vance responded that it was not quite so simple. Also, Young described the Cubans in Angola as bringing a certain stability and order to the region, but Vance quickly corrected him by saying that any outside forces were not at all helpful in obtaining a peaceful solution. Another blunder by Young was an affirmative answer after being asked by a reporter if he considered the South African Government as being illegitimate. Although the answer was an honest reflection of Young’s own opinions, it was not the official position of the Carter Administration, who regarded the National Party as the legitimate ruler of South Africa. Accordingly, both the Carter Presidency and the Department of State issued a formal retraction of Young’s remark. Young did have a role to play, however, despite placing the rest of the Carter Administration in uncomfortable situations through his outspokenness. He was the first government official since Mennen (Soapy) Williams, President J.F. Kennedy’s Assistant Secretary of State for African Affairs, to link the civil rights movement with US policy toward South Africa. His appointment was therefore very significant in the sense that it helped to set course to the debate on US policy toward South Africa – something that previous US Administrations tried to avoid for various reasons.<sup>13</sup>

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12. As quoted in R.K. Massie, *Loosing the bonds*, p. 410.

13. A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, pp. 76-77, 82; R.K. Massie, *Loosing the bonds*, p. 410; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00727: *Telegram*: Secretary of State to United States Embassy, Dublin, 30 January 1977.

### 2.3 TIGHTENING THE SCREW ON VORSTER

In the midst of Carter, Vance and Young trying to formulate a South African policy, it is interesting to note the views of the US public on sanctions against South Africa. The US public in general seemed impressed by Carter's promise of a new policy towards South Africa during the run-up to the elections in 1976. However, a large proportion did not think that the situation in South Africa, repugnant as they thought it might have been, qualified for sanctions, which was clearly indicated in the United Nations Charter as being the ultimate weapon. According to a reader survey by the *Los Angeles Times* in the first quarter of 1977, the majority of the readers felt that such an extreme weapon would be unwise at that time in place, especially since an arms embargo was in place that refused South Africa arms that could be used in its repression of its black majority. They felt that although the deployment of South African troops in South West Africa (Namibia) was alarming, it still did not constitute such a threat to human rights as to justify sanctions, as more ominous international confrontations were visible in other parts of Africa. Instead, more meaningful action should be taken to advance change where change was needed, e.g. the Sullivan principles that were accepted early in March 1977 by several major US companies with extensive operations in South Africa. These principles had set forth new standards for employment practices, e.g. human equality through equal pay, non-discrimination in training for management positions, promotions of black people to senior positions, and equal treatment in working conditions, recreation and housing.<sup>14</sup>

Nonetheless, the initial rhetoric of the Carter Administration as described above promised a significant departure from the anti-apartheid policies of the previous US Administrations. The Carter Administration seemed to be profoundly against any racial discrimination and thus the apartheid policy of the South African Government. In early May 1977, the time to test this stance arrived when Secretary of State Vance announced that Vice-President Walter Mondale would be meeting with Vorster from 19-20 May 1977 in Vienna for "*a day and a half of very frank and candid discussions*"<sup>15</sup> on the ending of apartheid. Mondale apparently intended to ask Vorster how South Africa planned to move away from apartheid and deal with its minority problems. Mondale

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14. Editorial, *Weapon, Time, Place – All wrong*, *Los Angeles Times*, 3 March 1977, Part II, p. 4; R.K. Massie, *Loosing the bonds*, p. 408.

15. As quoted in Study Commission on U.S. Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 357.

however did not expect that Vorster, being widely regarded as a blunt and experienced man, would merely absorb a lecture on the dangers of racism without vigorously defending his Government's justification for the system of apartheid. Even then, the Carter Administration felt that the talks would nonetheless be an opportunity to remind South Africa that US concern over the South African racial situation under a human rights conscious President like Carter went very deep, even to the point of reassessing US policy in an effort to ensure that changes actually occurred.<sup>16</sup>

Shortly after Vance's announcement, Young announced that he would attend a United Nations conference in Mozambique and on his way back pass through Johannesburg on invitation of Harry Oppenheimer, a white South African diamond magnate and critic of the Vorster Government. His announcement elicited strong reaction from the South African Government, who said that Young had not gone through official channels in arranging his visit. Eventually, they reluctantly agreed to the visit, although on a number of conditions, of which one was that the visit be unofficial. One can reasonably ask why the South African Government was so reluctant to allow Young to visit South Africa. Except for the reason that he did not go through official channels, other possible reasons included: he was not invited by the South African Government; he did not request meetings with South African Government officials, but with a critic of that Government; and he visited South Africa on his own initiative, not on the initiatives of the South African Government. Furthermore, Young had by this time already held intensive talks with the African block in the United Nations, who had requested that the Security Council seek measures to end the apartheid policy of the South African Government, seemingly through declaring the latter a threat to peace under Chapter VII of the United Nations Charter. Indeed, the representatives of the African block actually said privately that they were seeking to test the Carter Administration on its new policy towards South Africa. Young also held discussions with US diplomats accredited to African countries, which centered on possible changes to the Carter Administration's policy toward South Africa. This included the withholding of the US veto in the Security

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16. P.J. Schraeder, *United States foreign policy toward Africa, Incrementalism, crisis and change*, p. 216; G. Godsell, Mondale, Young test new policy in S. Africa, *The Christian Science Monitor*, 16 May 1977, pp. 1, 11; B. Gwertzman, Vance reports no arms progress as two sides prepare for Geneva, *The New York Times*, 5 May 1977, p. A1; Anonymous, A toughening on South Africa, *The Christian Science Monitor*, 16 May 1977, p. 6.

Council, which would have amounted to the withdrawal of the protection that South Africa had for long enjoyed in the face of tough resolutions.<sup>17</sup>

On 4 May 1977, Vance held a news conference in which he touched very briefly on the Carter Administration's definition of human rights and the new US policy toward South Africa. Vance explained that the Carter Administration was trying to explain the concept of human rights by expanding it in terms of the various subcomponents included in the concept, as well as setting out the considerations that would have to be taken into account when deciding how to proceed in given human rights cases on a country-by-country basis. He also stressed the importance of using international and regional forums to have discussions on these cases. In the light of this, Vance was asked how rapidly he thought there should be moves toward majority government including all people in South Africa. His answer was that the Carter Administration's policy with respect to South Africa was and would remain an inalterable opposition to apartheid. However, the Carter Administration felt that the upcoming meeting between Mondale and Vorster would be constructive. The meeting would center on the questions of Rhodesia, South West Africa (Namibia) and South Africa, and how the South African Government planned to make progress in the ending of apartheid and in dealing with the problems of minorities.<sup>18</sup>

On 15 May 1977, just before the meeting between Mondale and Vorster, a report on four days of meetings in Abidjan, Ivory Coast, attended by several US State Department officials, appeared in *The New York Times*. At the meeting, it was said that the US was reviewing a series of possible strategies, some symbolic and some punitive, that would signal to the South African Government just how strongly the Carter Administration was committed to bringing about change in the South African racial policies. These measures basically included those on a secret list drawn up by the State Department early into the Carter Administration, as mentioned under Section 2.2.1<sup>19</sup>. They were contingency

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17. Anonymous, South African visit by Young remains a matter of doubt, *The New York Times*, 15 May 1977, p. 3; G. Godsell, Mondale, Young test new policy in S. Africa, *The Christian Science Monitor*, 16 May 1977, p. 1; K. Teltsch, 'Brother' Young welcomed at U.N., *The New York Times*, 22 March 1977, p. 10; C.L. Sulzberger, Borderline peace, *The New York Times*, 6 April 1977, p. 25; Study Commission on U.S. Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 357; R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p.32; R.K. Massie, *Loosing the bonds*, pp. 409-410; G. Godsell, Carter faces credibility test on Africa, *The Christian Science Monitor*, 23 May 1977, p. 1.

18. Department of State, Secretary Vance's News Conference of May 4, *Department of State Bulletin*, 23 May 1977, pp. 516-517.

19. See p. 42.

plans, and it was unconceivable that they would be discussed in the meeting between Mondale and Vorster. The report went on to say that the upcoming meeting would be the clearest signal to date of the importance that the Carter Administration attached to the possible resolution of the Rhodesian and South West Africa (Namibia) questions as well as the need for serious change in South Africa. Several of the 35 US ambassadors who attended the meetings underscored that the Carter Administration had moved beyond the mere condemnation of apartheid to the formulation of an active policy. In other words, unlike Kissinger, the Carter Administration was no longer willing to hold back on South Africa in the hope of obtaining action on majority rule in Rhodesia and a new status for South West Africa (Namibia). However, the change in policy did not yet mean that the US would launch a barrage of punitive sanctions against South Africa.<sup>20</sup>

On 19 May 1977, Mondale and Vorster met in Vienna. From the outset, Mondale did his best to make it clear that the official US attitude toward South Africa had changed. He emphasized that the new policy would no longer only focus broadly on Southern African problems as was the case with Kissinger, but also directly on South Africa. In other words, the time for anti-apartheid rhetoric had passed, and the US would now back up its words with actions. Mondale strongly registered total disagreement with Vorster's contention that separate development was not discriminatory. He stated that unless South Africa was willing to commit to full and equal participation of all its citizens in political affairs, the Carter Administration would have no choice than to exert diplomatic steps. Concerning the independence of South West Africa (Namibia), Mondale firmly rejected any solution based on ethnic representation, according to Vorster's Turnhalle initiative that emerged from a conference of South West Africa (Namibia) internal factions. He also made it clear that the Carter Administration, unlike the Ford Administration, would not trade progress in South West Africa (Namibia) and Rhodesia for inaction on apartheid. Vorster, as expected, was unbending to what he regarded as US interference in South Africa's internal affairs. He bluntly resisted the suggestion that South Africa should soften its apartheid policy, saying it was not a multiracial country, but a multinational one. Therefore, the apartheid design would guarantee the maintenance of the various distinctive forms of culture in the country. On the other

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20. M.T. Kaufman, U.S. considering new strategies in its policies toward South Africa, *The New York Times*, 15 May 1977, p. 3.



hand, he accepted regional involvement by the US with the aim of hastening solutions in Rhodesia and South West Africa (Namibia), and promised South African cooperation.<sup>21</sup>

Meanwhile, Young was attending the Special United Nations Conference on Southern Africa in Maputo, Mozambique, where he denounced colonialism and minority rule and explained that the aim of his visit to Africa was to start implementing a new US approach to Southern Africa and to demonstrate his own commitment to human rights. He advocated that all parties fighting minority rule in Southern Africa should work together, whether they were guerillas or 'nonviolent nuns'. During the Conference, general agreement was reached on a series of embargoes against South Africa, including a supplementary Program of Action for the Liberation of Rhodesia and South West Africa (Namibia). The Program would include proposals for a mandatory arms embargo against South Africa. However, Young told reporters that the US would for the time being not join a consensus on the action plan, as it would hamper efforts to bring about a peaceful transition to black rule in Rhodesia and South West Africa (Namibia). He nonetheless added that Carter had openly warned the South African Government of the possibility of economic sanctions if it continued to defy United Nations resolutions concerning the independence of South West Africa (Namibia).<sup>22</sup>

Against the above backdrop, Young arrived in Johannesburg on 21 May 1977. As his visit had already elicited strong controversy among white South Africans a few weeks before, the local press was not allowed to greet him and the security around him was tight. The majority of black South Africans he encountered nevertheless warmly welcomed him. Shortly after his arrival, he addressed a group of two hundred business leaders. In his address, possibly to avoid any further controversy, he avoided any suggestions that black South Africans should organize economic boycotts, and touched only briefly on his frequently expressed moral and humanitarian distaste for the South Africa's Government's policy of apartheid. Instead, he strongly endorsed the concept of free enterprise, saying that black South Africans had to become full participants of the economy, gaining the changes they seek through the marketplace. This he linked with

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21. G. Godsell, Carter faces credibility test on Africa, *The Christian Science Monitor*, 23 May 1977, p. 1; R.K. Massie, *Loosing the bonds*, p. 412; Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, pp. 357-358; L.E.S. de Villiers, *US sanctions against South Africa*, p. 119.
  22. A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, p. 81; J. Foisie, U.N. parley agrees on tough embargoes in Southern Africa, *Los Angeles Times*, 21 May 1977, p. 11; M.T. Kaufman, Young sees a tactic in Rhodesian foray, *The New York Times*, 19 May 1977, p. 5.



what he called an impressive military system of the South African Government, saying that the latter was defending itself against the wrong threat, as the problems that South Africa faced was not military, but economic, i.e. shrinking markets, shrinking investments, etcetera, as a result of apartheid.<sup>23</sup> In his own words: *"You cannot fight points in the money market and there is no army within 2,000 miles to challenge South Africa militarily, so what is the value of an atomic bomb when there is no one to drop it on?"*<sup>24</sup>

Young drew a direct comparison between apartheid and the segregation experience that American blacks had to endure not so many years before. He suggested that those in South Africa who sought an end to apartheid should find a way to make the Government attentive, using as example the two things that the American civil rights movement believed were the only things the ruling conglomerate would listen to: votes and money. As the American blacks did not have votes, they used money. He then quickly added that he did not try to advocate a boycott, as doing so would mean that he meddled in the internal affairs of South Africa. However, the next day he indeed brought up the role of boycotts when he met with several black delegations and student groups. He told them without hesitation that they should use economic boycotts against apartheid. He furthermore touched on what can be viewed as an approval of violence when he said that it would be hypocritical for the US to condemn violence by black people seeking freedom when the US itself fought a revolutionary war of independence.<sup>25</sup>

Young's turn-about from being wary of antagonizing the South African Government when he arrived to his recommendations the very next day that economic boycotts against the South African Government should be used, infuriated the latter and many of its supporters. As one middle-aged Afrikaner women commented when watching Young enter the Carlton hotel in Johannesburg: *"Who does he think he is, coming here and telling us how to run our country? He may know something of racial questions in*

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23. A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, p. 82; G. Godsell, Mondale, Young test new policy in S. Africa, *The Christian Science Monitor*, 16 May 1977, pp. 1, 11; J.C. Randal, Share power, Young urges S. Africans, *The Washington Post*, 22 May 1977, p. A14.

24. As quoted in J.C. Randal, Share power, Young urges S. Africans, *The Washington Post*, 22 May 1977, p. A14.

25. A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, pp. 82-83; J.C. Randal, Share power, Young urges S. Africans, *The Washington Post*, 22 May 1977, p. A14; R.K. Massie, *Loosing the bonds*, p. 413.

*America, but he doesn't know anything about us.*"<sup>26</sup> Young was also showered on his way to enter the hotel by typewritten slips thrown from high-rise buildings surrounding the hotel. Hard-line whites supportive of the South African Government presumably threw the slips. They were also distributed in the lobby of the Carlton hotel by a young white man, who was subsequently detained for a short while. The slips read: "*Young insults us. Kick him out*" and "*Hated Young is our enemy*".<sup>27</sup> As for Prime Minister Vorster, no immediate comment was forthcoming. He was still in Vienna after his meeting with Mondale.<sup>28</sup>

By the end of May 1977, it was clear to all observers that the Carter Administration was indeed tightening the screw on the South African Government. Indeed, developments in the next months underlined this fact. In June 1977, Carter outlined some aspects of his new foreign policy in an interview with members of the Magazine Publishers Association. He started by saying that in foreign affairs, his Administration had been quite aggressive so far, especially in trying to wrestle with the basic questions of Southern Africa in a deeply involved fashion. He also felt that his Administration had been very successful in arousing the consciousness of the world about basic human rights and human freedoms. In Southern Africa specifically, they faced three basic, interrelated problems simultaneously: independence for Rhodesia, independence for South West Africa (Namibia), and the future attitudes of South Africa, who was also deeply involved in the first two questions. Concerning South Africa, Carter said that his Administration did not feel an inclination to intrude in that country's internal policies, although the US as a nation was committed to having equal treatment of citizens. Furthermore, although South Africa had a very bad reputation in many regions of the world, the Carter Administration was not trying to overthrow the South African Government. It did however feel that there ought to be some equality of pay for the same kind of work, promotion opportunities for black citizens, and an end to the discriminatory pass system. In its dealings with South Africa, the Carter Administration was trying to let the South African Government know that it was not abusive. Instead, they recognized the South African Government's value as a stabilizing influence in

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26. As quoted in R.K. Massie, *Loosing the bonds*, p. 413.

27. As quoted in G. Godsell, Carter faces credibility test on Africa, *The Christian Science Monitor*, 23 May 1977, p. 11.

28. G. Godsell, Carter faces credibility test on Africa, *The Christian Science Monitor*, 23 May 1977, p. 11; J.C. Randal, Share power, Young urges S. Africans, *The Washington Post*, 22 May 1977, p. A14.

Southern Africa to the extent that they worked with the US to resolve the questions in the region.<sup>29</sup>

In early July 1977, Vance made the most comprehensive statement yet on US policy toward South Africa, in a speech before the annual meeting of the National Association for the Advancement of Colored People (NAACP). In the statement, Vance warned the South African Government that its relations with the US would surely deteriorate if it failed to make rapid progress to end apartheid and bring about the full political participation of all South African citizens. Vance urged the South African Government to begin discussions with the black majority immediately, concerning ways to bring about the progressive transformation of the South African society. On the communist threat in the region, Vance said that he had heard many suggestions that the US ought to support the white minority governments in Southern Africa, since they were anti-communist. However, the Carter Administration was of the opinion that the continued denial of racial justice in the region encouraged the possibilities for outside intervention. Concerning the form of Government that a transformed South Africa should have, Vance said that it was a decision for the people of South Africa to make, as there were many ways in which the individual rights of all citizens could be protected. He was of the opinion that the key to the future was that South Africans of all races began a dialogue on how to achieve a better future. He specifically rejected the South African policy of separate homelands for black people, which he asserted had been devised without concern for the wishes of these black people. The US had not recognized the autonomy of Transkei, called the first independent black homeland by the South African Government, nor would it recognize a second homeland, Bophuthatswana, whose independence was scheduled for December 1977. Lastly, Vance said that the Carter Administration had decided to actively pursue solutions to all three Southern African problems, as they were intertwined. To ignore the apartheid system in South Africa while concentrating on achieving progress in Rhodesia and South West Africa (Namibia) would be wrong and would not work, according to Vance. He thereby again rejected Kissinger's policy of ignoring apartheid for the sake of Rhodesia and South West Africa

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29. Anonymous, Magazine Publishers Association interviews President Carter, *Department of State Bulletin*, 11 July 1977, pp. 46-48.

(Namibia). Vance felt that it would be blind to the reality that the beginning of progress must be made soon in South Africa, if a peaceful solution was sought.<sup>30</sup>

Interestingly, neither Carter nor Vance publicly mentioned that they were expecting a vote on sanctions against South Africa in the United Nations Security Council. Behind the scenes however, they were most concerned about that possibility, which had indeed been indicated by the African states already in March 1977. In a memorandum to the Department of State, the National Security Council (NSC) requested a short planning memorandum on sanctions affecting South Africa likely to be voted on by the Security Council. The NSC asked for a memorandum that would present a step-by-step scenario of sanctions possibilities, starting with an amendment of existing Rhodesian sanctions to cover arms imports from South Africa, up to the most severe economic sanctions that could be voted against South Africa. The NSC stated that it was most concerned with having an array of possibilities in this regard.<sup>31</sup> The reasons for their concern were not mentioned.

It should be noted at this stage that although Vance's statement of July 1977 was a forceful restatement of concerns expressed by Mondale to Vorster in their meeting in Vienna in May 1977, the increasingly vocal anti-apartheid movement in the US felt it clearly indicated an unwillingness to move beyond rhetoric to active action. Accordingly, they decided to exert more pressure for more progressive policies toward Africa. One of the new mouthpieces calling for comprehensive sanctions against South Africa as well as support for the armed struggle against the white minority governments in Southern Africa was TransAfrica, a foreign policy lobby officially incorporated in July 1977. TransAfrica was to organize and mobilize the African-American electorate in support of more progressive policies toward Africa. In addition, a Task Force on Africa was created by the NAACP, which called for the adoption of comprehensive economic sanctions against South Africa, including a mandatory arms embargo, and the complete withdrawal of investments from South Africa.<sup>32</sup> Both organizations were fully supported by the Congressional Black Caucus under the leadership of Charles Diggs.

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30. Anonymous, U.S. urges rapid S. Africa Reform, *Los Angeles Times*, 2 July 1977, pp. 1, 19; R.K. Massie, *Loosing the bonds*, p. 413.
  31. Carter Presidential Library and Archives (Atlanta), White House Central File, Subject File, CO 141, Box CO-53, 20 January 1977 - 31 May 1977: *Memorandum*, National Security Council to Department of State, 23 June 1977.
  32. P.J. Schraeder, *United States foreign policy toward Africa: Incrementalism, crisis and change*, p. 217.

## 2.4 THE CASE OF ARMS FOR SOUTH AFRICA

In mid-1977, another factor that would play a role in pressurizing the Carter Administration to active action against South Africa came to the fore in a Congressional Hearing on the US implementation of the 1963 arms embargo. As mentioned before, in October 1976 the US, Britain and France vetoed a mandatory arms embargo against South Africa, and in March 1977 efforts by the Security Council to strengthen the embargo proved abortive. The issue greatly concerned anti-apartheid lobbyists in the US Congress. Accordingly, in March 1977 the House of Representatives introduced a joint resolution calling for a comprehensive presidential review of US policy and practices with respect to the shipment of arms to South Africa. The resolution followed a two-month investigation by the Committee on International Relations that revealed that from 1975 through 1976, the US Government permitted the export of nearly \$500,000 of weapons like shotguns, rifles, teargas and other so-called nonmilitary weapons to South Africa.<sup>33</sup>

What further caused renewed interest in the implementation of the arms embargo was the fact that from February to April 1977, several reports on the South African military build-up appeared in various different newspapers. In the *Los Angeles Times* of 6 February 1977, a reporter alleged that Israel was selling arms worth millions of dollars to South Africa. As the Israeli arms industry was created mainly with help from the US, there was rampant concern that US equipment and technological know-how ended up in South Africa through Israel. One example was the Kfir fighter plane that was being developed and manufactured in Israel and offered for sale to South Africa, among other countries. However, the Kfir had a US manufactured General Electric J079 engine. Thus, any sales of the aircraft ought to have been approved by the US. Israel apparently had no concern for this regulation, especially because it was also known as a pariah among the nations – just like South Africa, it was labeled as racist (ironic when one considers the reasons why Israel was originally founded) and subjected to almost as many condemning United Nations resolutions. Accordingly, it apparently had no regrets about dealing with South Africa as a wealthy nation willing to pay well for arms and technology. The issue of Israeli-South African ties was also reported on in the *Christian*

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33. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives. Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, p. 53.

*Science Monitor* of 25 March 1977, which stated that Israel regularly denied reports of arms sales to South Africa, although it was widely believed that regular supplies of especially electronic equipment made its way from that country to South Africa.<sup>34</sup>

On 31 March 1977, a report on South African increases in defense spending appeared in the *New York Times*. It was reported that the South African Government had, in reaction to growing pressures both domestically and abroad, announced a budget marked by sharp increases in outlays for defense and the police. Growing concern over the security of South Africa was reflected in a 21.3 percent increase in defense spending and a 15 percent increase in the outlays for the police. These increases brought the defense budget to 18 percent of the total budget. A few days later, on 4 April 1977, the *New York Times* again carried a report on the South African Government strengthening its defenses against the mounting threat to white supremacy. The report included a statement by Vorster that the position of whites in South Africa was not negotiable. Accordingly, he had commissioned the development of a 'total strategy' to stave off pressures for majority rule. This in effect meant that South Africa would be put on a war footing. The new strategy unfolded since the beginning of 1977, trimming civil liberties, strengthening the economy against the threat of embargoes, and expanding the already powerful armed forces. Furthermore, it was indicated that more far-reaching measures would also be pursued in order to maintain essential democratic principles. The strategy emerged from a policy review by Vorster in the wake of the widespread rioting in black communities in 1976, as discussed earlier in this chapter. The riots were the most serious internal challenge ever mounted against apartheid, and provoked an international outcry that added momentum to the campaign by Communist and third-world countries for concerted efforts to be taken against the South African Government. Most seriously for South Africa, it weakened the hand of the Western countries, which have long resisted calls in the United Nations for an arms and investment embargo against South Africa. On 5 April 1977, the *Christian Science*

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34. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives. Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, p. 1; D. Torgerson, Israel selling millions in arms to South Africa, *Los Angeles Times*, 6 February 1977, p. 1; Anonymous, Israel-South Africa ties questioned, *The Christian Science Monitor*, 25 March 1977, p. 3.

*Monitor* carried an article on the defense budget and the 'total strategy', in a very similar vein to the two *New York Times* reports.<sup>35</sup>

On 30 April 1977, *The New York Times* reported that South Africa had a secret nuclear plant that was suspected of working on a nuclear bomb. The report stated that if South Africa was developing nuclear weapons, it was almost certainly taking place inside a top-secret uranium enrichment plant at Pelindaba near Pretoria. The plant was the focus of attention among a growing number of political and military analysts who believed that the South African Government intended to build atomic bombs. They alleged that these bombs would be used to deter black-ruled states to the north of South Africa, who have vowed to use all means, including force, to overthrow the white South African Government. They were of the opinion that the uranium enrichment plant was being used to develop weapons-grade uranium, the basic material for nuclear explosives. What made South Africa's case worse was that it was one of the nations who had not yet signed the Nuclear Non-proliferation Treaty banning the spread of nuclear weapons.<sup>36</sup>

The South African Government insisted that its nuclear program was for peaceful application only. Concerning the treaty, it said that the international inspections required when signing the treaty could compromise the secrecy of the South African enrichment process, which was unique and cheaper than systems elsewhere. A director of the South African Atomic Energy Board (AEB) responded hotly to the rumors, saying that they were absurd – the Pelindaba plant was NOT making nuclear weapons. He went on to ask what South Africa would do with a nuclear weapon, arguing that it would be of little use in controlling guerrilla warfare or urban unrest, the most likely strategies of black militants. But the statement by the AEB director was only half true. It was true that the Pelindaba<sup>37</sup> nuclear plant was not manufacturing nuclear weapons. Furthermore, the secret uranium plant was not situated at the Pelindaba site, but next to it at a site called Valindaba<sup>38</sup>. However, despite continuous denials, South Africa indeed had a nuclear weapons program that produced six and a half nuclear bombs by 1989, as revealed by South African State President F.W. de Klerk in 1993. The manufacturing

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35. Anonymous, South Africa increases outlays for defense, *The New York Times*, 31 March 1977, p. 7; J.F. Burns, Afrikaners dig in against threat to their rule, *The New York Times*, 4 April 1977, pp. 1, 8; J. Goodwin, S. Africa girds with arms, laws, *The Christian Science Monitor*, 5 April 1977, p. 4.

36. J.F. Burns, South Africa's secret atom plant suspected of working on a bomb, *The New York Times*, 30 April 1977, pp. 1, 6.

37. A Zulu word meaning "we don't talk about this anymore".

38. A Zulu word meaning "we don't talk about this at all".



was highly secret and was not done at the Pelindaba site.<sup>39</sup> Information on this never leaked, therefore the issue would, until the climax in 1993, continue to draw much attention and speculation. The US specifically would find itself in the crossfire in the years to come, because of the fact that 120 South Africans were sent for training at nuclear establishments in the West at the outset of the South African nuclear program. Many of these establishments were in the US.<sup>40</sup>

The issue of a possible mandatory arms embargo against South Africa had, as previously discussed, again surfaced at the United Nations Conference in Maputo attended by Andrew Young in May 1977, and all indication was that it would be a principal topic during the annual session of the General Assembly scheduled to begin in September 1977. In the light of all the media coverage on the South African defense issues as well as the House Joint Resolution of March 1977, the Carter Administration suspected that it would face a renewed demand for a mandatory arms embargo. The State Department was therefore requested to compile a report on US practices with respect to the embargo, in order to ensure it was effective. In June 1977, the report was sent to the NSC, who suggested that the report should not say that the US was unable to account fully for certain figures of arms-related equipment finding its way to South Africa. Instead, it should explicitly state what was licensed for export to South Africa in 1975 and 1976, indicating that it was due to loopholes, and then detailing what the Carter Administration had done to close the loopholes. The NSC further stated that the US should indicate in the report that the NSC supported efforts to close the loopholes in the current US arms embargo policy to South Africa, and therefore had no objections to a study of this issue should it be requested by the United Nations.<sup>41</sup>

In mid-July 1977, a *SAPA/Reuters* news report asserted that the Carter Administration had presented a report on arms embargoes to the US Congress. The report allegedly indicated that although the Carter Administration had declared that it would act more severely on South Africa, in fact it still did not have a clear-cut action policy and was

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39. P. Liberman, The rise and fall of the South African bomb, *International Security* 26(2), Fall 2001, p. 56. A detailed discussion of South Africa's nuclear weapons program follows in Chapter 7.
  40. J.F. Burns, South Africa's secret atom plant suspected of working on a bomb, *The New York Times*, 30 April 1977, pp. 1, 6.
  41. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives. Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, p. 1; Carter Presidential Library and Archives (Atlanta), White House Central File, CO 141, Box CO-53, 20 January 1977 - 31 May 1977: *Memorandum*, National Security Council to Office of Management and Budget, 30 June 1977.



wondering if a mandatory arms embargo would be the right tool to use. Although South Africa was not explicitly mentioned in the report, it was clear that the report was directed against a proposed mandatory arms embargo. The Carter Administration warned Congress not to implement an arms embargo too strictly against countries that have ignored human rights according to US standards. According to the Carter Administration, an arms embargo could become a blunt tool if not used cautiously. In essence, it held the possibility that smaller countries could be offended – countries that were important to US security. An arms embargo also had the danger that countries under an embargo could turn to other countries for their military needs. This could destroy the US' influence on these countries to adhere to human rights. Instead, US arms should only be withheld from the most serious offenders of human rights, i.e. where there was no hope for improvement in applying human rights. In such cases, the US did not want to be associated to any degree with such countries. The report also briefly touched on the dangers involved in an arms embargo. The Carter Administration believed that numerous other countries would not follow its example of instituting an arms embargo, which in turn would only encourage the target of the embargo to buy its arms from other countries. Lastly, the possibility of control over arms sales rather than an embargo was mentioned.<sup>42</sup>

The anti-apartheid movement did not agree with Carter's stance, and on 14 July 1977 launched into a hearing on the 1963 arms embargo implementation before the Subcommittee on Africa of the Committee on International Relations in the House of Representatives, chaired by Charles Diggs. The hearing was held as part of the anti-apartheid movement's continuing review of US-South African relations. Diggs was of the opinion that the timing of the hearing was fitting because of the rapidly evolving political situation in Southern Africa, and the role that arms and arms-related material played in retaining the South African apartheid Government in power. Diggs asserted that there were several loopholes in the implementation of the embargo: Firstly, there was no legal standard by which to judge the enforcement of the embargo; second, there was an exception that enabled South Africa to receive arms and equipment for its external defense; third, there was no clearly specified prohibition of items with dual civilian military use; and lastly, there was no uniform standard for controlling the resale of armaments by third parties. The aim of the hearing was to examine the extent to

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42. Anonymous, America's dilemma with arms embargo, *Sapa/Reuters*, published in *Die Suidwester*, 13 July 1977, p. 4.

which the loopholes have permitted South Africa to continue to receive arms and military-related equipment from major powers like the US; the principal violators of the voluntary arms embargo and the nature of the arms trade with South Africa; South Africa's response to the embargo and its development of its own arms industry; and ways of strengthening the embargo.<sup>43</sup>

The first person to testify at the Hearing was Sean Gervasi, a research associate at the New York State University. He charged that major Western countries, including the US, had helped South Africa stockpile a secret arsenal of sophisticated weapons in violation of the 1963 United Nations arms embargo. The objective of this embargo was to prevent South Africa from acquiring foreign weapons with which to build a modern military machine. The Security Council reasoned at the time that if South Africa were denied supplies of modern arms, it would find it difficult to resist the growing internal demands for the ending of apartheid. By 1977, it was widely believed that the arms embargo had been successful, with most arms-producing countries repeatedly stating that they did not allow the sale of arms or military equipment to South Africa. However, Gervasi said that new data obtained from industrial and governmental sources showed that the arms embargo was practically non-existent, and that there had been a thriving international trade in arms for South Africa for nearly a decade. In some cases, South Africa had been able to purchase arms quite openly, but a great deal had been obtained secretly or through certain loopholes in governmental policies. In any case, South Africa's arms stockpile was worth more than \$3 billion and far exceeded all previous estimates. A good proportion of this was re-conditioned but very serviceable equipment of US origin.<sup>44</sup>

According to Gervasi, the US Congress faced two immediate problems. First, to find out why major US equipment, whether produced in the US or under license abroad, was able to reach South Africa. This immediately raised a variety of questions: Was it the policy of previous US administrations to allow the shipment of major arms systems to

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43. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives. Hearing: ***United States-South African relations: Arms embargo implementation***, 14 & 20 July, 1977, pp. 1-2.

44. Anonymous, S. Africa secret arsenal violates UN treaty, ***The Christian Science Monitor***, 14 July 1977, p. 2; Anonymous, Stockpiling for S. Africa? ***The Christian Science Monitor***, 15 July 1977, p. 2; United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: ***United States-South African relations: Arms embargo implementation***, 14 & 20 July, 1977, pp. 1-7; Anonymous, West reportedly helped S. Africa stockpile arms, ***Los Angeles Times***, 14 July 1977, p. 6.

South Africa, and if so, did they deliberately ignore the United Nations arms embargo? Or, if that was not the case, were regulations governing the arms trade so loosely drafted that it permitted sales to South Africa? If these regulations were adequate, were they then simply not enforced for a long period of time? Secondly, if arms sales to South Africa continued, they should be stopped immediately, as a matter of some urgency, as Africa was nearing a final confrontation over apartheid. In Gervasi's opinion, continued arms sales to South Africa at that time would be regarded worldwide as evidence of a commitment to support apartheid.<sup>45</sup>

In the light of the above-mentioned questions, Gervasi proceeded to outline what he thought was the US' contribution to the breakdown of the embargo. The list of major items, which, according to him had reached South Africa either directly or indirectly from the US, included armored personnel carriers, armored cars, battle tanks, light tanks, self-propelled guns, Starfighter jets, counter-insurgency aircraft, Iroquois helicopters and Hercules C-130B transport aircraft. All of the alleged items were operational and in service of the South African regular and citizen forces, and deliveries continued even as he was speaking. However, US corporations did not sell directly to South Africa. South Africa obtained the equipment they needed through an indirect route. The preferred channel appeared to be licensed production, by which US corporations agreed to let a foreign manufacturer produce a US weapon under license. This foreign manufacturer then shipped the items in question to South Africa. Although the Office of Munitions Control in the Department of State should have controlled this traffic, they apparently did not control some foreign sales when production took place under a US license. For example, a US corporation, FMC, had licensed Oto Melara, a major Italian arms manufacturer, to produce a version of the M-113A1 armored personnel carrier, which was shipped to South Africa from Italy. Oto Melara also produced and refurbished the M-109 self-propelled gun under US license and then sold it to South Africa. Nonetheless, Gervasi did not believe that the Carter Administration was involved in the arms traffic, as the information that he had was mainly applicable to the previous US Administrations. In this regard, he felt that the shipment of such large quantities of arms to South Africa indicated some kind of military commitment in support of the South African apartheid Government in a very delicate stage of its

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45. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, pp. 7-8.

history.<sup>46</sup> Indeed, when observed closely, it was consistent with the reversal of policy by the previous two US Administrations of Nixon and Ford.

The second statement to be heard at the hearing was that of Lewis Gann, a Senior Fellow of the Hoover Institution at Stanford University in San Francisco. He had a totally different perspective from Gervasi's, disagreeing with the assessment of South Africa as a moral pariah. Gann could not understand why South Africa was made a moral outcast while the US had for many years been a major exporter of arms to countries like the Republic of Korea, Iran, Saudi Arabia, Algeria, Ethiopia, Libya, Yugoslavia, Morocco, Zaire, Brazil, Chile, Haiti and many others whose commitment to human rights were just as or even more questionable than that of South Africa. The best policy would certainly have been not to sell arms to any of these countries, either. Moreover, the US, even though in the midst of the Cold War, exported sophisticated industrial goods and technical know-how to the Soviet Union, a country that unlike South Africa posed a mortal military threat to the US. Gann had many more positive things to say about South Africa when compared to the countries listed, e.g. that it was not a persecuting society - instead it attracted both white and black immigrants; that the development of South Africa was an extraordinary success story, making it the economic giant of the African continent; that although the injustices in the South African society were apparent to all, South African blacks have derived many real benefits from the progressive economic system, leading to a black middle class coming into being; that South Africa's military expenditure was not an insupportable burden – indeed, it accounted for only 4.9 percent of the GDP, much less than that of Nigeria, East Germany or the US. Lastly, Gann emphasized the strategic importance of the Cape sea route, which was in the modern day especially important for oil tankers that were too large to pass through the Suez Canal. South Africa would also prove to be of importance in the event of war, supplying an array of airfields, naval bases, supply depots and repair facilities for which there was no equivalent in the southern part of the Indian Ocean.<sup>47</sup>

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46. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, p. 6; S. Gervasi, *The United States and the arms embargo against South Africa: Evidence, denial and refutation*, pp. 20-23.

47. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, pp. 18-27; L.H. Gann, South Africa and the US arms embargo, *South Africa International* 8(3), January 1978, pp. 127-136.

Although Diggs politely thanked Gann for an interesting point of view, his testimony did not enjoy any further attention. On the contrary, Gervasi's statement enjoyed wide media coverage in US and South African newspapers alike. In one report, he was recorded as saying that he obtained his information from industry sources and South African military personnel and national servicemen employed in South West Africa (Namibia). He apparently alleged that in mid-1976, young servicemen in the defense force in South West Africa (Namibia) provided him with useful insight and information, because they were afraid that the situation there would get out of hand. He also claimed to having undertaken years of research on the violation of the arms embargo. Whatever his source of information, he elicited an almost immediate response from the Carter Administration. In an urgent telegram to the US Embassies in Pretoria, London, Paris, Rome and at the United Nations in New York, the State Department presented the pertinent portion of Gervasi's testimony for urgent review. The first reply to this request was from the US Embassy in Rome, which stated that it had no record, knowledge nor recollection of Italian arms sales or transfers to South Africa of any items resembling those listed by Gervasi. It went on to say that on the contrary, it considered that the Italian Government and all significant Italian arms manufacturers and exporters were fully aware of and, as far it was known, honored US strictures on arms transfers, including those to South Africa. The Embassy had nothing to indicate that Oto Melara and Agusta were not meticulous in seeking prior US assent for possible arms sales. Oto Melara itself also responded immediately with a comprehensive denial, saying that it had respected the limitations set by both the Italian and US Governments and had not sold nor shipped any M-113 and M-109 155mm SP guns to South Africa, directly or indirectly.<sup>48</sup>

In the days after Gervasi's testimony, several newspapers carried denials by the Carter Administration that the US had helped South Africa to build up a secret stockpile of sophisticated weapons in defiance of the 1963 arms embargo. In a statement to the press, a State Department spokesman, Hodding Carter, described the allegations by Gervasi as false and tendentious. He said that no licenses had been issued for the sale of arms or equipment to South Africa, as well as no approvals for the transfer of US-

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48. Anonymous, 'Arsenal man tells of sources', *The Star*, 15 July 1977, p. 3; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00760: **Telegram**: Department of State to American Embassies in Pretoria, London, Paris, Rome, New York, 15 July 1977; fiche 00761: **Telegram**: American Embassy, Rome to Department of State, 18 July 1977.

made equipment or arms from third party countries. The only equipment permitted since the embargo came into effect in 1963, were spare parts for C-130 aircraft previously purchased, and some items like sporting shotguns and small private aircraft for sales to civilians. Concerning transfers of US arms and equipment from third countries, Carter said that if it happened, it was without US knowledge and approval.<sup>49</sup>

On the South African side, in what can perhaps be viewed as an effort to quench the storm that broke loose after Gervasi's testimony, the chairman of Armscor, Commandant Piet Marais, held an extensive interview with the *South African Financial Gazette*. Not a word was mentioned on Gervasi's allegations. Instead, Marais was asked how sufficient was Armscor in the light of the cost of armaments escalating at an alarming rate, and South Africa having to spend vast amounts of money trying to defend itself. According to Marais, Armscor existed only to render a service to the SADF, namely to procure and manufacture arms at the lowest possible cost. To make South Africa self-sufficient in arms, it utilized more than 1 200 sub-contractors and main contractors. However, only work that was not of great strategic importance, were given to private enterprises. Armscor did the more sensitive and difficult work itself. Concerning who was responsible for identifying South Africa's armament requirements, the SADF determined new types of weapons it required to defend South Africa. Through a joint committee, they stated their needs relative to the external threat, then Armscor stated its capabilities of meeting those needs within cost and time limits, then the SADF made calculations and took the decisions. The SADF had the total responsibility for defense, while Armscor's responsibility was the supply of armaments. It was self-sufficient in guns, ammunition, armored cars etc., but with regard to naval vessels and modern bomber aircraft, it would be impractical and uneconomic to manufacture it. These, Marais stated, could and would be met from foreign suppliers.<sup>50</sup> Through this statement, it can be reasonably asserted that Marais did not deny the fact that South Africa was indeed able to obtain the armaments it needed from foreign suppliers, in spite of the arms embargo.

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49. Anonymous, V.S.A. ontken hulp aan SA oor wapenvoorraad, *Die Volksblad*, 15 July 1977, p. 2; Anonymous, No US arms for SA, *Evening Post*, 15 July 1977, p. 2; Anonymous, G'n wapens deur ons, sê VSA, *Beeld*, 16 July 1977, p. 4; Anonymous, Secret arms deal denied, *Daily Dispatch*, 16 July 1977, p. 1; Anonymous, US denies aiding SA arms build-up, *The Citizen*, 16 July 1977, p. 11.

50. L. Kok, Questions for Armscor, *South African Financial Gazette*, 15 July 1977, p. 8; Anonymous, SA wapens "goed", *SA Oorsig*, 22 July 1977, p. 7.

On 20 July 1977, the hearing on the arms embargo implementation continued. This time it was the Carter Administration's turn to present its statement. The task fell upon the shoulders of Stanley J. Marcus, Deputy Assistant Secretary for Domestic Commerce, Department of Commerce, and William H. Lewis, Director of the Office of Inter-African Affairs, Department of State. Marcus was requested by Diggs to address four issues, namely the implementation of the US Export Administration Act; the monitoring and implementation of embargoes; factors considered in the determination of strategic materials and who made these determinations; and the Department of Commerce's oversight responsibilities for foreign subsidiaries and branches.<sup>51</sup>

Concerning the implementation of the Export Administration Act, Marcus explained that it was the basic statutory authority for control over US exports, for three purposes: national security, US foreign policy, and to protect the economy against shortages and inflationary price increases. Restrictions on exports to South Africa rested on the foreign policy authority of the Act. In conformity with the United Nations Security Council resolution of 1963, the US embargoed shipments of arms, munitions, military equipment and material for their manufacture and maintenance to South Africa. Items that were strictly military in nature, particularly items on the munitions list, were controlled by the Department of State. Items that could not be exported without a valid license, as well as items with multiple uses such as civil aircraft, computers, radar and communications equipment, all of which could be used by the South African military forces for military purposes or by the internal security forces for crime control, were placed on the commodity control list and were denied for export to these forces. However, items that did not have any direct and clear application to combat or internal security operations, were generally licensed for sale either to military or civilian buyers in South Africa. Items that were predominantly used by military forces but did not have a clear and direct application to combat or internal operations were generally licensed for civilian use but could also be licensed to military buyers. At the time of the hearing, this policy was under review. Items with a clear and direct application to combat or internal security operations were not licensed to military or police buyers, but could be licensed for civilian use. Under these guidelines, the US had rejected applications for aircraft suitable for troop transport, but limited numbers of unarmed civilian executive type aircraft had

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51. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, pp. 44-45.



been approved for sale to the South African defense forces. However, very few items had in fact been licensed under this category, namely seven executive aircraft and computers for materials inventory were licensed to the military, and a small computer for toxicological laboratory work was licensed to the police.<sup>52</sup>

Marcus emphasized that all license applications were given an intensive review to ensure that it would not be used by the South Africa military or security forces in a manner that was inconsistent with the arms embargo. When any doubt existed about the end use of the item, or the end user, the help of the US Embassy was elicited to conduct on-the-spot inquiries into the likely use. All sales to the South African military or internal security forces were also carefully reviewed in consultation with the Department of State and in certain cases with the Department of Defense. The same procedures applied to the export of US parts, components, materials or other commodities to be used abroad to manufacture or produce a foreign-made product. For example, the use of US components in the production of aircraft manufactured in third countries and intended for sale to South Africa was subject to the same kind of controls as described. Compliance with the policy was monitored and enforced through a devoted staff who examined shipments and shipping documents and worked with US Customs to ensure that items requiring a license did in fact have a proper license to be exported, before it left the US. On-site checks were also done in cooperation with the US Embassy in South Africa.<sup>53</sup>

In addressing Diggs' third request, Marcus said that guidelines on the determination of strategic materials was first promulgated in 1964, amended in 1968, updated in 1970, and were, as he was giving evidence, again under some review. Pursuant to these guidelines, items on the Export Control List were continuously reviewed to determine whether it should be on the list, and, if so, if there was sufficient certainty that it would not be diverted to or used in an impermissible manner by the South African military or internal security forces. In this regard, new initiatives on the South African situation, coupled with congressional concern, had led the Department of Commerce to review and strengthen certain aspects of the embargo program. For example, a small value

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52. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, pp. 45-46.

53. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, p. 46.



exemption that existed for shotguns, shells and parts was eliminated. Furthermore, new regulations were instituted to require validated export licenses for foreign shipments to South Africa and South West Africa (Namibia) that came through the US. And just the day before the hearing, new regulations were announced which significantly increased the level of control over equipment which could be used in crime control and detection, like psychological stress analysis equipment, nonmilitary gas masks, bulletproof vests, helmets and shields, photographic equipment especially designed for crime control and detection, document authentication equipment, and various other grey area items including Boeing 747 aircraft that could be used for troop transport, and shotguns.<sup>54</sup>

Marcus' testimony was followed by that of William Lewis. His testimony was basically a confirmation of everything that Marcus had said, while he also emphasized that the allegations by Gervasi the previous week were utterly false. He said that all checks by the Department of State had failed to bring to light transfers of US equipment through third parties to South Africa. In addition to outlining the controls in place as demonstration of what he called the falsity of Gervasi's facts, he used the assertion made by Gervasi that a Portuguese firm, Bravia, had produced V-150 personnel carriers for sale to South Africa under license from Cadillac Gage of Detroit. The facts, according to Lewis, were that two former employees of Cadillac Gage stole technical data from the firm and conveyed it to Bravia. When the US Government discovered this, the two were prosecuted for illegally transferring the technology and were accordingly convicted and sentenced. As for the ultimate disposition of any personnel carriers manufactured in Portugal without a US license, the US Government was unable to obtain any confirmation of sales to South Africa. Also, the US did not authorize the export of any parts or components to Bravia.<sup>55</sup>

Lewis further commented briefly on how the arms embargo policy fit into the Carter Administration's policy toward South Africa. It served two purposes. First, the Carter Administration believed it was essential to deny the sale to South Africa of any item

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54. United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, p. 47.

55. W.H. Lewis, US arms embargo against South Africa, *Department of State Bulletin*, 5 September 1977, pp. 320 – 322; Anonymous, Secret arms deal with SA denied, *The Argus*, 21 July 1977, p. 15; S. Gervasi, *The United States and the arms embargo against South Africa: Evidence, denial and refutation*, pp. 25-27; United States Congress, Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, pp. 50-52.

that could be used to enhance or maintain the South African Government's military capabilities, or, in the case of the police, in the enforcement of apartheid. Second, the Carter Administration wanted to avoid the possibility that any of its policies could be interpreted wrongly as indicating US acquiescence in the South African racial policies. This had been embodied in the comprehensive review of the US' policy toward South Africa during the first few months of 1977. The Carter Administration now was studying particular aspects of US relations with South Africa. Close attention was particularly being paid to the importance of maintaining an arms embargo policy that was consistent with the Carter Administration's overall approach to South Africa. In this context, an in-depth look was being taken into the question of grey-area sales. Even if an item had no clear and direct application to combat or internal security operations, the sale of such items could strengthen the enforcement of apartheid. However, to devise guidelines on this issue was a difficult matter, and therefore some requests were to be dealt with on a case-by-case basis.<sup>56</sup>

The testimonies by Marcus and Lewis elicited a flurry of newspaper reports in South Africa. The headlines screamed that the US had moved to tighten the arms embargo, and that Carter Administration officials had made it clear that it was part of the program to force political change in South Africa. These officials had also apparently said that they wholeheartedly supported the sentiments of Diggs, when he emphasized the necessity for finding ways to strengthen the arms embargo. The reports further stated that Marcus had said that whenever the Department of Commerce could identify additional areas to strengthen the embargo, the changes would be initiated promptly. The new controls outlined by Marcus were listed, as well as the fact that the US had launched a major investigation to determine whether heavy military equipment of US origin had reached South Africa through loopholes in the arms embargo measures, as alleged by Gervasi. Lastly, the reports stated that it was understood that the South

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56. W.H. Lewis, US arms embargo against South Africa, *Department of State Bulletin*, 5 September 1977, p. 322; S. Gervasi, *The United States and the arms embargo against South Africa: Evidence, denial and refutation*, pp. 27-28; Subcommittee on Africa of the Committee on International Relations, House of Representatives, Hearing: *United States-South African relations: Arms embargo implementation*, 14 & 20 July, 1977, pp. 52-53.

African Government would protest against the move, as it would have a direct effect on the export of riot-control equipment to South Africa.<sup>57</sup>

From the discussion above, one can conclude that the Carter Administration had indeed moved to strengthen the arms embargo. In early August 1977, France followed suit by extending its arms embargo against South Africa to all types of equipment. The South African Government reacted immediately, though in a very nonchalant way, through the Minister of Defense, P.W. Botha. He reiterated that South Africa would endeavor to manufacture all the arms it could not obtain elsewhere, but nonetheless added quickly that he thought that the arms embargo was a dream that could never be fully realized. In his own words: “*As long as we have the money, there will always be suppliers*”.<sup>58</sup> He however emphasized that South Africa never disclosed where it obtained its weapons or which countries it supplied. In another speech a few days later, he admitted that South Africa’s expenditure on arms had increased 15-fold during the previous ten years as a result of a major growth in the indigenous armaments industry necessitated by the arms embargo. The result was that by 1977, the local manufacture of ammunition, weapons, aircraft, electronic optics and pyrotechnics had progressed so far that South Africa was starting to consider the export of armaments to what he called “responsible powers”. And in what can be viewed as a defiant comment against the new US and France regulations, he said that once South Africa had acquired licenses for manufacture, no matter in what way, the initiative lay with South Africa to put them to practice or not.<sup>59</sup>

From August 1977, relations between South Africa and the US deteriorated rapidly. On 6 August, the Soviet Union informed the US and subsequently also the other powers in the Security Council, that it had spotted installations for detonating a nuclear device in

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57. Anonymous, US moves to tighten clamps on South African arms, *The Star*, 21 July 1977, p. 3; Anonymous, Boeings on new list of arms curbs, *The Argus*, 21 July 1977, p. 1; Anonymous, US will tighten SA arms embargo, *The World*, 21 July 1977, p. 1; Anonymous, Amerika omseil nie wapenverbod, *Die Volksblad*, 21 July 1977, p. 13; Anonymous, US tightens up police equipment exports to SA, *The Citizen*, 22 July 1977, p. 15; Anonymous, VSA verskerp wapenverbod teen SA, *Oggendblad*, 22 July 1977, p. 3.

58. As quoted in Anonymous, SA will make all arms – Minister, *Eastern Province Herald*, 10 August 1977, p. 1.

59. Anonymous, SA will make all arms – Minister, *Eastern Province Herald*, 10 August 1977, p. 1; Anonymous, Arms spending jumps 15-fold, *Pretoria News*, 18 August 1977, p. 8; Anonymous, Botha on arms policy, *Evening Post*, 18 August 1977, p. 7; Anonymous, Botha scorns weapon deal ban, *The Natal Mercury*, 18 August 1977, p. 13; Anonymous, Botha warns of need for discipline, *The Argus*, 18 August 1977, p. 17; Anonymous, S.A. kan wapens al uitvoer, sê P.W. Botha, *Die Volksblad*, 9 August 1977, p. 3; H. Hoffeldt, SA nie verleë oor Weste, *Beeld*, 18 August 1977, p. 1; Anonymous, Wapens: S.A. besluit self, sê Botha, *Die Burger*, 18 August 1977, p. 1.

the Kalahari Desert, South Africa. In a subsequent special statement, the Soviet Union alleged that South Africa was on the verge of manufacturing a nuclear bomb, and called for urgent international efforts to block such a development. The US immediately reacted by redirecting its own satellite cameras to the site, which verified the Soviet information. A strong joint warning not to proceed was issued to South Africa, but was met with a series of categorical denials that any explosion was contemplated, along with a public display of indignation about the way the US was treating South Africa. Vorster accused the US of backing a concerted international pressure campaign against South Africa, which could only result in chaos and anarchy in Southern Africa. He then vigorously reminded the US that South Africa did not intend to bow the knee to American pressure for changes in South Africa. Rather, Carter's pressure on the Southern African white minority governments was a way of repaying black voters in the US who have supported Carter in his election victory in November 1976. He also emphasized that while US interest in Southern Africa was welcome, the South African Government would not tolerate the right that the US had described itself to prescribe what should be done in the region.<sup>60</sup>

Interestingly, Vorster only denied that South Africa was contemplating a nuclear explosion. He did not categorically deny that South Africa was building installations that could be used to test-explode a nuclear device. Therefore, US suspicions about the intended use of the installations in the Kalahari Desert remained until 1993, when South African State President F.W. de Klerk admitted that South Africa had sunk 200 meter deep by one meter wide shafts in the Kalahari Desert for underground nuclear testing, but had stopped the project after protests from the US and Soviet Union. De Klerk however emphasized that the actual detonation of a nuclear device was never intended.<sup>61</sup>

What is interesting to note, is that the Kalahari test-site incident happened almost on the eve of a meeting in London between the US, British and South African foreign ministers to discuss efforts to move both Rhodesia and South West Africa (Namibia) to internationally recognized independence. As the Soviet Union played a major role in

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60. Study Commission on US Policy Toward Southern Africa, *South Africa: Time Running Out*, p. 358; Anonymous, Moscow says A-bomb near in South Africa, *The New York Times*, 7 August 1977, p. 13; R.K. Massie, *Loosing the bonds*, p. 414; Anonymous, South Africa lashes out at U.S., *The Christian Science Monitor*, 8 August 1977, p. 2; Anonymous, Candid talk on Southern Africa (Editorial), *The Christian Science Monitor*, 8 August 1977, p. 6.

61. D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6.

aiding the guerilla resistance movements in these areas in an effort to gain a foothold in Southern Africa, one cannot help to wonder whether the report on the presumed nuclear installation in the Kalahari Desert wasn't done on purpose to shoulder South Africa out of the negotiations. Whether this was the case or not, the fact is that South African Foreign Minister Pik Botha was not received too warmly at the talks in London. Indeed, he commented afterwards that the more South Africa did to help achieve acceptable settlements in Rhodesia and South West Africa (Namibia), the more the Western governments attacked South Africa. Therefore, South Africa had a growing conviction that accepting US and British demands for change in South Africa could lead to the latter's destruction.<sup>62</sup>

In the meantime, the US expressed grave concern over allegations that South Africa was manufacturing a nuclear bomb. A decision by South Africa to make nuclear weapons could deliver a serious blow to Carter's campaign against nuclear non-proliferation. In the light of this concern, the Department of State asked South Africa for assurances on three points: first, that South Africa did not have or intend to develop nuclear explosives for any purpose, peaceful or otherwise; second, that the Kalahari facility was not a testing facility for nuclear explosives; and third, that no nuclear explosive testing of any kind would take place in South Africa. The enquiry was accompanied by a warning that any nuclear tests by South Africa would have serious implications. On 21 August 1977, South Africa reacted to the enquiry through Foreign Minister Pik Botha, saying that the allegation was totally and wholly unfounded and untrue. Botha added that the South African Government was actually getting used to such false allegations, as it had been alleged for years already that South Africa was designing and developing terrible weapons from deadly poisonous gas to nuclear weapons. A few days later, Carter announced a commitment from South Africa that it would not undertake nuclear tests at that stage or in future. Nonetheless, he cautioned that the US would continue to watch the Kalahari site closely. In addition, he promised that the US would make a fresh effort to try and convince South Africa to sign the

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62. G. Godsell, S. African chess: The toughest moves, *The Christian Science Monitor*, 10 August 1977, p. 1; Anonymous, U.S.-British push vexes South Africa, *The Christian Science Monitor*, 16 August 1977, p. 9.

Nuclear Non-Proliferation Treaty and to submit all its nuclear power installations to full international safeguards and inspection.<sup>63</sup>

Looking closely at the outcry that followed the Soviet report, it seems that it was not so much because of the physical explosion of a nuclear bomb by South Africa as the fact that it might have caused a political explosion. As Andrew Young already said during his visit to South Africa in May 1977, it would have done no good to drop a bomb in Soweto, a black suburb of Johannesburg where unrest had continued for more than a year. Rather, it would probably have damaged negotiations on the independence of Rhodesia and South West Africa (Namibia), turning the spotlight away from them to South Africa. Furthermore, it could have sped up a trade and mandatory arms embargo against South Africa. Of course, the fallout from such an explosion would also have affected countless whites, too. On the other hand, exploding a nuclear bomb could have reiterated South Africa's new policy of 'total strategy', as noted earlier in this chapter, acting as a vigorous display of toughness when challenged.<sup>64</sup>

By 27 August 1977, the theory of South Africa exploding a nuclear bomb as part of a political ploy was enhanced when US intelligence analysts stated that they doubted seriously whether South Africa ever intended to physically explode such a bomb. Despite hard photographic evidence from US spy satellites that an underground test site was being prepared in the Kalahari Desert, analysts suddenly started to believe that South Africa manipulated the whole episode for its own political benefit by giving US government officials the impression that a test was imminent. Some even suspected that the site was a mock test facility built to trigger publicity that would indirectly label South Africa as being a potential nuclear power.<sup>65</sup> Whatever the case, one tends to think that this sudden change in US theory is indicative of hurt pride, because of the fact that the US, with all its sophisticated spy satellites, did not even notice the site until after being directed to it by the Soviet Union.

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63. Department of State, US, South Africa exchanges on nuclear matters, *Department of State Bulletin*, 5 December 1977, pp. 797-798; Anonymous, U.S. asks S. Africa about A-bomb test, *Los Angeles Times*, 21 August 1977, p. 10; Anonymous, Is Pretoria playing with a bomb? (Editorial), *Los Angeles Times*, 23 August 1977, p. 6; Anonymous, South Africa denies nuclear-test reports, *The Christian Science Monitor*, 22 August 1977, p. 2; R. Walker, We'll watch Kalahari 'A-site' says Carter, *The Natal Mercury*, 24 August 1977, p. 1.

64. J. Goodwin, South African atom bomb – a political explosion? *The Christian Science Monitor*, 24 August 1977, pp. 1, 22.

65. O. Johnson, A-test story seen as S. African ploy, *Los Angeles Times*, 27 August 1977, p. 6.

The South African Government again reacted defiantly, this time through Finance Minister Owen Horwood. He stressed that although South Africa stood by its assurances that it will not use its nuclear program for military purposes, it reserved the right to use its nuclear potential for other than peaceful purposes. In his own words: *"I think it is time we told Carter and a few other people that if we did at any time wish to do other things with our nuclear potential, we will jolly well do so according to our own decisions and our own judgment"*.<sup>66</sup> Nonetheless, Pik Botha, obviously being concerned that Horwood's statement could revive reports that South Africa was preparing to test a nuclear bomb, quickly followed up on his remarks, saying that the assurances given earlier that South Africa had no intentions of test-exploding a nuclear bomb still stood, and that it reflected firm government policy.<sup>67</sup>

## 2.5 THE SOUTH AFRICAN GOVERNMENT'S DEFIANCE

From 22-26 August 1977, the United Nations sponsored a World Conference for Action Against Apartheid in Lagos, Nigeria, where a Declaration for Action Against Apartheid was made. Young attended the Conference and made a statement concerning South Africa that indicated that the US was still hesitant to take active steps against that country, despite its strong rhetoric and the events of the preceding weeks. Young asserted that the Vorster Government continually charged that the US was trying to pull the rug out from under white South Africa, and that the US policy was viewed as *"strangulation by finesse"*.<sup>68</sup> He made it clear that he could not agree with this condemnation; rather, the situation in South Africa should be analyzed rationally, all alternatives discussed and a serious attempt made in an effort to find realistic solutions. Although the US policy was rooted in a firm commitment to the progressive transformation of the South African society toward majority rule and an end to apartheid in as rapid and aggressive a manner as possible, it was inevitable that there would be differences on the tactics and methods of achieving these goals. He said that he did not believe in the method of violence, although he had never condemned any man's right to take up arms in pursuit of freedom. However, the armed struggle in Southern Africa was

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66. As quoted in Anonymous, S. Africa official sounds defiant note on A-power, *Los Angeles Times*, 31 August 1977, p. 18.

67. Anonymous, S. Africa official sound defiant note on A-power, *Los Angeles Times*, 31 August 1977, p. 18.

68. As quoted in A. Young, Developments concerning apartheid, *Department of State Bulletin*, 3 October 1977, p. 446.



too often advocated most vigorously by people thousands of miles away from the actual struggle. Their only contribution to the struggle was bitterness and frustration.<sup>69</sup>

In early September 1977, South Africa once again made headlines all over the world with the death of Steve Biko, a Black Consciousness leader, in police custody. Biko was a former medical student who was actively involved in self-help programs in black communities. In 1973 already, he was banned and restricted to King William's Town. Afterwards, he was arrested and released several times as a result of his promotion of Black Consciousness. The South African Government was of the opinion that Black Consciousness would eventually lead to the mobilization of black opinion against the white establishment, i.e. racial confrontation. Biko was furthermore often outspoken against US involvement in South Africa, believing that it had steadily increased and that the Carter Administration should take a harder line against South Africa. His final arrest was on 18 August 1977 near Grahamstown, far outside the limits of his banning restriction to King William's Town. He was kept in isolation until 6 September 1977, when he was taken to an interrogation room where he was confronted with pamphlets obtained from informants. According to his interrogators, he gave an unsatisfactory response, thereby eliciting a storm of physical and mental abuse that left him unconscious. He had suffered injury to the brain, but was refused proper medical attention for several days. Finally, he was transported to a police hospital outside Pretoria, more than a thousand kilometers north of Port Elizabeth where he was held in custody. The doctor who examined him on his arrival in Pretoria was given no information about his prior history, and proceeded to only give him a shot of vitamins. Biko died a few hours later on 12 September 1977.<sup>70</sup>

A terse announcement of Biko's death was made the following day, leading to a wave of reports in English South African newspapers and international wire services. However, the South African state-controlled radio and television stations did not even mention Biko's death. At first, the Minister of Police, Jimmy Kruger, gave the cause of death as a hunger strike. But within a few days, an avalanche of questions and criticisms led to a retraction of the first explanation. Now, the official statement was that Biko had not died because of a hunger strike, but simply after one. Biko was also

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69. A. Young, Developments concerning apartheid, *Department of State Bulletin*, 3 October 1977, pp. 446-447; A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, p. 88.

70. R.K. Massie, *Loosing the bonds*, pp. 414-423.



accused of plotting and advocating violence. When questioned on Biko's death at the Transvaal Congress of the Nationalist Party, Kruger said that it left him cold. This statement caused the South African Government immeasurable damage, according to Foreign Minister Pik Botha. It alienated friends, because they saw a hardened point of view that was probably a trademark of Afrikaners and made them suspicious of further relations. Botha predicted that Carter would support a mandatory arms embargo against South Africa as a result of Biko's death.<sup>71</sup>

The initial explanation of Biko's death also did not go down well with a large proportion of the South African society. In the days and weeks after his death, the South African Government was confronted by an upsurge of black student demonstrators and protests, supported by white liberal factions. On 17 September 1977, Vorster made his first public comment about Biko's death in an exclusive press interview. He said that although it was very unfortunate and that an inquest would be opened, he wished to note that Biko's role as Black Nationalist leader had been exaggerated. Indeed, Vorster did not even think that one out of a hundred knew who Biko was before he died.<sup>72</sup> In the light of the uproar that Biko's death caused, however, this remark can be viewed as very naïve. It is as if Vorster and his Government was simply blind to the truth, or maybe on the other hand they were simply being obstinate to the world resistance against their policy of apartheid. One also gets the impression that they seemed unaware of black attitudes, too.

Vorster used the interview to follow up on his thundered defiance against the United Nations at the National Party Convention in Johannesburg earlier that month. The United Nations was expected to impose sanctions on South Africa, and the renewed defiance could therefore be viewed as a political necessity considering the assurance by Vorster and some of his cabinet ministers in the preceding weeks that South Africa as a nation could stand alone. He forecasted some severe tests for South Africa, but nonetheless reiterated that the policy of apartheid was not discrimination but a sincere effort to provide black people living in South Africa with an opportunity to independently rule themselves in mini states within the South African borders. In this regard, he once again

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71. R.K. Massie, *Loosing the bonds*, p. 423; J.E.H. Grobler, *Transcript of a telephonic interview with R.F. (Pik) Botha*, 11 February 1997.

72. R.K. Massie, *Loosing the bonds*, p. 423; S. Topping, Vorster warns U.S. against 'meddling', says he will resist sanctions, *The New York Times*, 17 September 1977, pp. 1, 5; Anonymous, Excerpts from interview with Prime Minister Vorster on South African policy, *The New York Times*, 17 September 1977, p. 4.

lashed out at the US, saying that relations between the US and South Africa was fast reaching the stage where the South African Government felt that the US wanted to prescribe to them how the country should be run internally. He admitted that only a fool would not listen to advice, but then said that outsiders could not be allowed to meddle in the internal affairs of another country. Therefore, the South African Government was definitely not going to allow anybody to tell them what to do and what not, especially not the US. Through this comment, Vorster specifically lashed out at Mondale, who remarked at his meeting with Vorster in May 1977 that he did not see any difference between the concepts of full participation and one-man, one-vote. He said that it was the same thing, i.e. every citizen should have the right to vote, and every vote should be equally weighed. The remark was taken by Vorster as confirmation that the US favored one-man, one-vote elections in South Africa, which would lead to black majority rule.<sup>73</sup>

Turning to the other much-debated issue of the preceding months, namely South Africa's nuclear capabilities, Vorster was asked in the interview whether he would exclude the use of nuclear technology for military purposes if it came to the actual survival of South Africa as a result of pressure or attacks from Africa. Vorster answered that the use of nuclear technology for military purposes had never occurred to his Government, for the simple reason that South Africa was capable to deal with everything that comes out of Africa in the normal conventional way. South Africa manufactured all the armaments needed to defend itself, and only asked the West for armaments to defend the Cape sea route against Russian invasion. He then reiterated that he did not visualize a frontal attack from Africa to the north, but if they were "foolish enough" to do so, then South Africa would be able to deal with it effectively. Just a few weeks later, however, Vorster denied in a televised interview that he had given Carter a promise that South Africa would not develop nuclear weapons. On the contrary, he said, he merely repeated a statement that had been made often by his

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73. J. Foisie, S. African leaders take a defiant stand against possible U.N. economic sanctions, *Los Angeles Times*, 18 September 1977, p. 5; S. Topping, Vorster warns U.S. against 'meddling', says he will resist sanctions, *The New York Times*, 17 September 1977, pp. 1, 5; Anonymous, Excerpts from interview with Prime Minister Vorster on South African policy, *The New York Times*, 17 September 1977, p. 4.

Government, namely that South Africa was only interested in peaceful development of nuclear facilities.<sup>74</sup>

Several international sympathizers attended Biko's funeral, and a memorial meeting was held at the United Nations, where the Sierra Leone Foreign Minister, Abdullai Conteh, urged the international community to take collective action to bring an end to the carnage in South Africa, in the form of a mandatory arms embargo. His plea was echoed by David Sibeko, the Foreign Affairs spokesman of the PAC-in-exile, who asked the Security Council to impose economic sanctions and an arms embargo against South Africa. Sibeko quoted from a speech by Biko the previous year, in which he asked Carter to reverse the traditional policy whereby the US had always looked at South Africa as a partner in diplomatic initiatives in Africa. Several other appeals on the same note were also heard, and it started to look as if a mandatory arms embargo against South Africa was imminent. In fact, on 26 September 1977, a memorandum from David Aaron, the US President's Deputy Assistant for National Security Affairs, was sent to Mondale and the Departments of State and Defense. In this memorandum, initial measures for force on South Africa, if necessary, were recommended. The measures, which were approved by Carter, were aimed at reaching a settlement in Rhodesia on acceptable terms, and included support for a mandatory United Nations embargo on arms sales to South Africa. In addition, it was stated that grey area sales of military related equipment would continue to be reviewed on a case-by-case basis, but with some tightening as a signal to South Africa. The tightening pressures would be given special consideration in the South West Africa (Namibia) context, where the issue of South African military withdrawal could prove to be a major obstacle.<sup>75</sup>

The South African Government had in September 1977 provided new ammunition to its foreign critics with the death of Biko. In October 1977 it provided even more such ammunition through what can be viewed as clumsy and naïve actions. Vorster felt that

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74. A.J. DeRoche, Standing firm for principles: Jimmy Carter and Zimbabwe, *Diplomatic History* 23(4), Fall 1999, pp. 657-685; S. Topping, Vorster warns U.S. against 'meddling', says he will resist sanctions, *The New York Times*, 17 September 1977, pp. 1, 5; Anonymous, Excerpts from interview with Prime Minister Vorster on South African policy, *The New York Times*, 17 September 1977, p. 4; Anonymous, Vorster denies A-weapons pledge, *The New York Times*, 24 October 1977, p. 2.
75. D. Shannon, Arms ban for S. Africa urged at U.N., *Los Angeles Times*, 24 September 1977, p. 2; Carter Presidential Library and Archives (Atlanta), Zbigniew Brzezinski Collection, 1972 - 1981, NLC-1132-C, PRC 41, 01/1977-01/1981, Box 24: *Memorandum*, David Aaron to The Vice President, Secretary of State and Secretary of Defense, 26 September 1977.

he might be able to turn the panicky mood that gripped South Africa to his advantage and proceeded to announce that parliamentary elections would be held in November 1977, a year earlier than the originally planned date. He wanted a strong mandate to deal for once and for all with outside intervention in South African affairs. To demonstrate his resolve to suppress dissent, he ordered a crackdown on dissident black leaders, newspapers and organizations, which was introduced on 19 October 1977. Two leading black newspapers, *The World* and the *Daily Dispatch*, as well as eighteen black and interracial organizations, including the South African Student Organization (SASO), the Black People's Convention, the Black Women's Federation and other organizations were banned. Fifty prominent individuals were arrested.<sup>76</sup>

The bannings led to an immediate international outcry. The US Department of State issued a statement saying that the Carter Administration was deeply disturbed by the crackdown, which it viewed as designed to stifle the freedom of expression for black people in South Africa. Carter himself responded by calling back the US Ambassador to South Africa for consultation on what steps the US should take in response to the crackdown. This decision was given unusual publicity by the Carter Administration, presumably so that it could be regarded as a slap at the South African Government. Carter also called a policy review session with Mondale, Young, Vance, his national security advisor, Zbigniew Brzezinski, and representatives of the Treasury, Commerce and Defense Departments to discuss what concrete steps to take beyond the oral condemnation of South Africa. In the US Congress, white liberals and members of the Congressional Black Caucus, as well as the Assistant Secretary of State for African Affairs, issued strong statements urging the Carter Administration to go beyond mere rhetoric and take specific actions like economic sanctions and other punitive measures. In the United Nations, the African nations began a renewed campaign to invoke tough punitive measures on South Africa, including an arms embargo and a ban on future investment or a curb on trade with South Africa. Andrew Young himself responded by

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76. A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, pp. 89-90; R.K. Massie, *Loosing the bonds*, pp. 424; B. Gwertzman, U.S. recalls envoy from South Africa for consultations, *The New York Times*, 22 October 1977, p. 1; Anonymous, The price of repression (Editorial), *Los Angeles Times*, 26 October 1977, p. 6.

saying that he favored some form of sanctions against South Africa, although he took care to say that he was expressing a personal view.<sup>77</sup>

The American public and private organizations also reacted to the crackdown through numerous petitions and letters. The American Lutheran Church stated that the detentions and bannings were undeniable evidence of the oppression under which the nonwhites of South Africa lived. The World Methodist Council stated that its General Secretary had spent a week in South Africa and gained the distinct impression that the crackdown was aimed at persons who were doing nothing more than seeking the dignity and participation of all South Africans in the life of the country. The Church Divinity School of the Pacific send a mailgram to Vorster urging him to take back the order banning the Christian Institute in South Africa and to give back the basic rights of press and organization to black persons, noting that the restrictions on the freedom of the Gospel was frightening. The Polaroid Company noted a deep concern about the events in South Africa and said that it was dismayed to find that many of their friends and correspondents in South Africa had been placed under house arrest. It said that it was most anxious to know what policy the US Government would pursue regarding political and business relations between the US and South Africa. The Coalition for a New Foreign and Military Policy urged the Carter Administration to put an end to financing and investment in South Africa, as well as an end to all US nuclear trade and co-operation with South Africa. They also demanded support for a mandatory United Nations arms embargo. Lastly, the Tennessee Black Caucus presented a lengthy petition condemning the crackdown and requesting Carter to impose military, economic and political sanctions against South Africa.<sup>78</sup>

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77. G. Hovey, U.S. considers steps against South Africa, *The New York Times*, 25 October 1977, p. 5; B. Gwertzman, U.S. recalls envoy from South Africa for consultations, *The New York Times*, 22 October 1977, p. 1; K. Teltsch, Young in favor of stiffer steps on South Africa, *The New York Times*, 25 October 1977, p. 1; C. Murphy, Young favors sanctions against South Africa, *The Washington Post*, 25 October 1977, p. A1; Anonymous, Young favors sanctions against S.A., 25 October 1977, p. 3; Anonymous, Young favors U.N. sanctions on South Africa, *Los Angeles Times*, 25 October 1977, p. 1; A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, p. 90.
78. Carter Presidential Library and Archives (Atlanta), White House Central File, Subject File, CO 141, 1/20/1977-1/20/1981, Box CO-54: **Letter**, David W. Preus, President of the American Lutheran Church to President Carter, 31 October 1977; **Letter**, Frederick H. Borsch of The Church Divinity School of the Pacific to President Carter, 31 October 1977; **Letter**, Joe Hale, General Secretary of the World Methodist Council to President Carter, 31 October 1977; **Letter**, Peter Wensberg, Senior Vice President of the Polaroid Corporation to Vice President Walter Mondale, 28 October 1977; **Letter**, Coalition for a New Foreign and Military Policy to President Carter, 28 October 1977; White House Central File, Public Relations, Executive, PR 13-1/ST: **Letter**, C.B. Robinson, Chairman of the Tennessee Black Caucus to President Carter, 4 November 1977.

In conclusion, it can be asserted that at the end of October 1977, it was clear that the gulf between the US, i.e. both the US Government and the US people, on the one hand and the South African Government and its supporters on the other hand, was rapidly widening. The status quo that existed when Carter became US President nine months before, was no longer tenable.

## 2.6 THE INSTITUTION OF A MANDATORY ARMS EMBARGO AGAINST SOUTH AFRICA

The crackdown on internal opposition by the South African Government placed Carter in a position where he could no longer resist some form of action against that country, as it was widely regarded as a very drastic backward step on the advancement of human rights. If Carter did not do anything practical, his commitment to human rights would have been viewed as false by the American electorate who voted for him for just that reason, as well as by the world community who had been expecting a more hard-line policy toward South Africa from his Administration. Thus, on 25 October 1977, a new day dawned for US-South African relations. For the first time ever in the history of US-South African relations, an Administration of the US branded the South African racial policies a threat to international peace and security. On this day, officials of the Carter Administration announced that it had decided in principle to support a proposed move in the United Nations Security Council to impose a mandatory arms embargo against South Africa, possibly with an initial time limit of six months as an incentive to South Africa to stop the continuing crackdown on opposition movements.<sup>79</sup>

In addition to the arms embargo, the Carter Administration also indicated that if satisfactory language for a resolution could be agreed upon with African states and other delegations, it would be inclined to support a Security Council warning of economic action against South Africa if the latter did not modify its policy of apartheid. But it was quickly added that the US gave no consideration at that stage for drastic economic sanctions against South Africa. The Carter Administration felt that to press for such drastic action would risk alienating conservative forces in the US Congress and

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79. J.C. Harsh, Mr. Carter versus South Africa, *The Christian Science Monitor*, 27 October 1977, p. 23; O. Johnston, U.S. prepares South Africa sanctions plan, *Los Angeles Times*, 26 October 1977, pp. 1, 23; Anonymous, U.S. to support mandatory S. Africa arms embargo, *Chicago Tribune*, 26 October 1977, p. 2; Anonymous, Carter to back arms embargo on Republic, *The Cape Times*, 27 October 1977, p. 1.

among the public opinion, whose support was crucial for other foreign policy objectives. Thus, Carter left a door open for diplomacy. He still hoped that the South African Government would co-operate in bringing about a peaceful solution to the South West Africa (Namibia) question and the issue of apartheid.<sup>80</sup>

But the US proposal still had to get past the African nations, who were reluctant to merely accept a mandatory arms embargo. Although they saw it as a positive step towards a shift in US policy towards South Africa, they did not think that it stretched far enough. Accordingly, four resolutions for punitive action against South Africa were reintroduced in the United Nations Security Council by Benin, Liberia and Mauritius. These resolutions offered a wide range of action as alternatives to the US proposal. The first resolution included a condemnation of the South African Government's crackdown on political opponents and a call to release political prisoners and abrogate bans on individuals and organizations. The second resolution castigated South Africa for its continued defiance of past United Nations requests, and declared apartheid to be a threat to international peace and security. The third resolution requested member states to stop the sale of all kinds of arms and military equipment to South Africa, refrain from aiding in the nuclear development of that country and prevent corporations from providing any form of direct and indirect assistance to the South African Government in its military buildup. The fourth resolution sought to impose a ban on government or private investments, loans or credits to the South African Government.<sup>81</sup>

On 27 October 1977, Carter officially announced the US support for mandatory United Nations sanctions against all arms sales to South Africa, thereby establishing a formal precedent for action by the United Nations. He also expanded the US' own arms embargo against South Africa to include items such as spare parts for C-130 transport aircraft and other equipment like small executive airplanes that could be used for either military or civilian purposes. Carter said that South Africa had rejected the efforts of the US to work harmoniously together towards a peaceful solution of the problems of Southern Africa and the elimination of apartheid by taking away the rights of free press and eliminating many of the organizations that had been working toward improved

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80. G. Hovey, U.S. is said to agree to arms sanctions against South Africa, *The New York Times*, 26 October 1977, pp. A1, A7; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00794: *Telegram*: Secretary of State to All African diplomatic posts, 28 October 1977.

81. D. Shannon, U.S. action seen today on S. Africa, *Los Angeles Times*, 27 October 1977, p. 5; Anonymous, UN council split on S. Africa bans, *Chicago Tribune*, 27 October 1977, p. 2.



equality for all the people of South Africa. He therefore felt that it was important that the US expressed in no uncertain terms its deep and legitimate concern about these actions. He denied that a mandatory arms embargo against South Africa amounted to intervention in the internal affairs of that country, claiming that the US was not trying to impose a blueprint or timetable for racial change in South Africa. Instead, the US wanted to continue working with South Africa in the hope that the South African Government would not sever itself from the rest of the world but rather move in a rapid and evolutionary way toward granting all people of South Africa equal human rights.<sup>82</sup>

On the same day, the Western members of the Security Council, i.e. the US, Britain, France, Canada and West Germany met to discuss a concept recommendation requesting increased pressure on South Africa to change its policy of apartheid. Three concept resolutions had been presented to the Security Council: the first would have banned foreign investment in South Africa, the second would have ended nuclear cooperation with South Africa, and the third would have stopped the arms procurement of South Africa. None of the Western members of the Security Council were however willing to accept full economic sanctions against South Africa. At the end of the meeting, a general agreement was reached to accept a mandatory arms embargo against South Africa, subject to renewal every six months. An alternative draft resolution to this effect was drawn up, which, if accepted, would direct all United Nations members to cease any provision of arms to South Africa, including the sale and transfer of arms, ammunition of all types, military vehicles, and equipment and material for the manufacture of arms and ammunition, paramilitary police equipment, and spare parts.<sup>83</sup>

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82. Anonymous, U.S. in van of new pressure, *Evening Post*, 28 October 1977, p. 1; G. Hovey, President says U.S. backs U.N. arms ban against South Africa, *The New York Times*, 28 October 1977, pp. 1, 8; Anonymous, Transcript of President's News Conference on Foreign and Domestic Affairs, *The New York Times*, 28 October 1977, p. 14; E. Randolph, Carter backs UN ban on arms to South Africa, *Chicago Tribune*, 28 October 1977, p. 1; Anonymous, Arms ban yes – economic sanctions no, *The Natal Witness*, 27 October 1977, p. 1; Anonymous, President Carter's News Conference on October 27, *Department of State Bulletin*, 21 November 1977, pp. 718-719; Anonymous, National Newspaper Association interviews President Carter, *Department of State Bulletin*, 5 December 1977, pp. 798-799.
83. A.J. DeRoche, *Andrew Young: Human Rights Ambassador*, p. 90; H. Robertson, SA 'threat' to world peace, *The Star*, 28 October 1977, p. 1; Anonymous, Carter sê ja vir wapenverbod, *Die Burger*, 28 October 1977, p. 1; E. Randolph, Carter backs UN ban on arms to South Africa, *Chicago Tribune*, 28 October 1977, p. 1; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00796: *Telegram*: Secretary of State to American embassies, 29 October 1977; M.R. Benjamin, Africa hits 'loopholes' in U.S. arms embargo effort at U.N., *The Washington Post*, 29 October 1977, p. A1.



Many of the African states reacted favorably to the Western resolution. However, some of the more radical African states rejected it and demanded on 28 October that the resolutions presented by them earlier be brought to vote at the next Security Council meeting. They sharply criticized some loopholes in the Western resolution, saying that it made no mention of halting all nuclear cooperation with South Africa and failed to bar the granting of licenses to that country for the production of such military items as armored cars or jet fighters. Furthermore, they expressed concern over the failure of the resolution to specifically state that the arms embargo was being imposed under Chapter VII of the United Nations Charter, which authorized measures against nations that constituted a threat to the maintenance of international peace and security. They felt that the **situation** in South Africa was a threat to international peace and security, while the Western resolution only stated that the **supply of arms** to South Africa was a threat to the international peace and security. Lastly, they said that the timing factor of six months was totally unacceptable, as the South African Government of the time was not one that could ever be supplied with arms. The US was however reluctant to compromise on this point, arguing that a permanent arms embargo would make the ban simply punitive and remove any incentive for South Africa to change its racial policies. Also, any effort to remove a permanent ban later would undoubtedly be vetoed by the communist governments of the Soviet Union or China. On the reference to Chapter VII, the US argued that the omission of any direct reference to Chapter VII was inconsequential, since the language of the Chapter and the resolution actually said the same thing. Privately, however, the Western countries argued that if South Africa was specifically cited under Chapter VII in an arms embargo resolution, the African states would quickly seek economic sanctions by arguing that the nature of the South African Government had already been established.<sup>84</sup>

Despite the objections to the Western resolution by African states, the US, along with the other Western nations, indicated that they could not agree with the way in which at least three of the African resolutions were drafted. The US especially wanted to avoid having to veto the African resolutions. Accordingly, all efforts were made to avoid these resolutions being brought to a vote. The US embassies in African states were ordered to

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84. M.R. Benjamin, Africa hits 'loopholes' in U.S. arms embargo effort at U.N., *The Washington Post*, 29 October 1977, p. A1.

make contact with the highest available local official in order to bring some important key points of the draft Western resolution to their attention:

- It was in line with Chapter VII of the United Nations Charter, i.e. the call for an arms embargo was based on the finding that further shipments of arms to South Africa would represent a threat to peace.
- It represented abandonment of a position of seventeen years duration by Western powers and a decision, together with the African nations, to take specific, mandatory measures with respect to South Africa.
- If adopted, it would represent the first time that the United Nations has imposed Chapter VII sanctions on a member state.
- It demonstrated the willingness of the Western countries to work together with African states to press for peaceful change in South Africa.

The embassies were asked to emphasize that the four African resolutions would in all probability encounter a veto from the Western nations, which would be a serious setback to the common objective. Instead, the African countries must recognize that the process of achieving racial equality and justice in South Africa would be a long term effort in which cooperation between the African states and the Western countries would be an indispensable element. The US requested that African representatives to the United Nations be asked by their governments to work for a compromise solution in which the African resolutions would not be pressed to a vote. It warned that should the situation in the Security Council result in wholesale defeat of resolutions and no apparent consensus, South Africa could get an entirely misleading impression that they actually enjoyed support in the Western countries.<sup>85</sup>

On 31 October 1977, the US through Ambassador Andrew Young responded to the African nations' criticism that the Western resolution did not even mention a halt to all nuclear cooperation with South Africa. Young said that although he personally favored an embargo on nuclear exports to South Africa as further pressure to alter its apartheid policy, matters had gone too far for such an embargo to be a realistic possibility. South Africa had at that stage already developed a capable nuclear potential, although it was

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85. Anonymous, Africans in U.N. press South Africa curbs, *The New York Times*, 29 October 1977, p. 3; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00796: *Telegram*: Secretary of State to American embassies, 29 October 1977.

not fully known to what extent. For that reason, the US could not risk ending its 20-year policy of cooperation in nuclear technology with South Africa, as it would only encourage that country to turn to the separate development of its capacity to produce nuclear weapons. Young did however warn South Africa that if it exploded a nuclear bomb, its neighbors would be able to obtain much more sophisticated nuclear weapons, but not from the US. With this statement he hinted that it might be obtained from the Soviet Union. In a separate interview, Brzezinski confirmed this fear, i.e. that the Soviet Union might be tempted to take action that would exacerbate and fuel the conflict in Southern Africa. He added that tightened US sanctions on military exports to South Africa were therefore aimed in part at avoiding a Soviet intrusion in the region. The prime concern of the Carter Administration was that the growing racial conflict in South Africa did not become an ideological conflict, which would involve the intrusion of foreign powers.<sup>86</sup> Thus, the Carter Administration found itself in basically the same position as that of Kennedy in 1963. On the one hand, the arms embargo was an effort to somewhat counter the pressure from the African states in order to maintain the economic, strategic and anti-communistic privileges of South Africa, while simultaneously trying to polish the image of the US in the eyes of the African states.<sup>87</sup>

On the same day, the efforts by the US to avoid a vote on the African resolutions proved abortive when the African nations stated during a Security Council debate that Carter's announcement of a mandatory arms embargo against South Africa fell short of the expectations of the international community. They still felt that any measure that was less than full Chapter VII sanctions would be inadequate to change the political situation in South Africa. The US along with Britain and France vetoed the three African resolutions, stating that it would only support a mandatory arms embargo against South Africa, and nothing else. They believed that a mandatory arms embargo would already be an appropriate response by the Security Council to the South African crackdown on 19 October. On nuclear arms, Young stated that the US agreed that South Africa should

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86. B. Gwertzman, Young rejects ban on atom fuel sale to South Africa, *The New York Times*, 31 October 1977, p. 1; Anonymous, Young keer vir kernverbod, *Beeld*, 31 October 1977, p. 1; Anonymous, Young hints at N-bomb build-up, *The Citizen*, 31 October 1977, p. 1; CBS, Presidential Assistant Brzezinski interviewed on "Face the Nation", *Department of State Bulletin*, 5 December 1977, p. 801; Anonymous, U.S. fears Soviet move in S. Africa, *Chicago Tribune*, 31 October 1977, p. 5; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00797: *Telegram*: Secretary of State to All African diplomatic posts, 29 October 1977.
87. M.S. van Wyk, *The 1963 United States arms embargo against South Africa: institution and implementation*, pp. 23-36.

remain free of nuclear weapons, that South Africa should sign the nuclear non-proliferation treaty and that South Africa's nuclear facilities be kept under international inspection. After the session, the US diplomatic posts in Africa were again instructed to emphasize that it was important to avoid extreme proposals that could give South Africa the hope that it could divide or discount the outside world.<sup>88</sup>

In addition to the African nations' unwillingness to accept the proposed Western resolution, Carter was also confronted with a resolution from the US House of Representatives in which the South African Government's repressive measures against black and white opponents to apartheid was strongly denounced. Biko's death was specifically mentioned. The resolution was approved in the House and called on Carter to take effective measures against South Africa in order to register the deep concern of the US people about the continued violation of human rights in that country. An identical copy of the resolution was also introduced in the Senate, where it was unanimously approved. The acceptance of the resolution was important in the sense that it was the first time that the US Congress had formally spoken out against South Africa. Both the Democratic Party and the Republican Party supported the resolution and was therefore united in denouncing the actions of the South African Government. As the Carter Administration had indicated that it would take action against South Africa in one way or another, it also meant that it was united with the US Congress. This was very important indeed, as it demonstrated to other countries that the US Congress fully supported Carter's proposal for an arms embargo against South Africa.<sup>89</sup> In the face of such a rare unity in US power circles, Carter had no choice but to go ahead with the action he promised.

On 2 November 1977, Vance presented a review of unilateral US sanctions that the Carter Administration had considered since the South African crackdown on 19 October. As discussed earlier, Carter had already announced the extension of the US

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88. E. Harsch, Carter vetoes UN sanctions against South Africa, *Intercontinental Press* 15, November 1977, p. 1214; K. Teltsch, 3 Western powers veto moves in U.N. to curb South Africa, *The New York Times*, 1 November 1977, p. 1; Anonymous, What Young told the Council, *Rand Daily Mail*, 2 November 1977, p. 15; South Africa: The making of United States policy, microfiche collection: National Security Files, fiche 00799: *Telegram*: United States mission at United Nations to Secretary of State, 1 November 1977; fiche 00800: *Telegram*: Secretary of State to All African diplomatic posts, 1 November 1977.

89. S. McBee, House censures 'repressive' South African tactics, *The Washington Post*, 1 November 1977, p. A13; A. Parker, US envoy aided anti-SA hate campaign, *The Citizen*, 2 November 1977, p. 1; Anonymous, U.S. 'not telling SA what to do', *The Natal Witness*, 2 November 1977, p. 1.

arms embargo against South Africa to include items such as spare parts and other equipment, but now Vance indicated that the US would also henceforth prohibit the export of all police equipment to South Africa, including grey area equipment. In addition, the US naval and commercial attachés to South Africa were recalled to the US as a punitive unilateral action. The commercial attaché was to take part in a full review of US commercial ties with South Africa. Vance reiterated that the US wanted to begin the progress towards the end of apartheid and full participation for all South Africans in the political processes. In the light of that, he offered the possibility of a new round of top-level meetings between the South African and US Governments after the South African elections set for 30 November 1977. This call was heeded that very same day by the US and South African ambassadors, who met amid the sharp recriminations between the two countries and agreed to do everything possible to repair the damage in the relations between the two countries.<sup>90</sup>

Also on 2 November 1977, the fifteen members of the Security Council agreed on a revised resolution for a mandatory embargo on arms sales to South Africa. The new resolution was the result of a compromise between the Western powers and the African states. The Western countries dropped their insistence on limiting the ban to six months. The Africans in turn yielded on their key demand that the Security Council make a finding that the **situation** in South Africa represented a threat to peace and hence was subject to the stiff penalties provided under Chapter VII of the United Nations Charter<sup>91</sup>. Instead, they accepted the Western formulation that the **acquisition** of arms and military material by South Africa represented a threat to peace. The new resolution thus called on all countries, including those not part of the United Nations, to immediately cease any provision to South Africa of arms, ammunition of all types, military vehicles and equipment and spare parts. In response to the demands by the African countries mentioned earlier, the revised text of the resolution also called for a review of all existing contracts and licenses under which South Africa had been able to

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90. O. Johnston, U.S. recalls 2 S. Africa aides, halts arms sales, *Los Angeles Times*, 3 November 1977, p. 1; Anonymous, Amerika slaan weer: Attaché herroep, *Beeld*, 3 November 1977, p. 1; Anonymous, U.S. recalls two envoys from Republic, *The Natal Witness*, 3 November 1977, p. 1; Anonymous, V.S.A. roep twee hoë amptenare terug, *Die Volksblad*, 3 November 1977, p. 2; Anonymous, U.S.-S.A. envoys pledge to repair battered links, *The Argus*, 3 November 1977, p. 25; Anonymous, Bid to end SA-US Cold War, *The Star*, 3 November 1977, p. 27.

91. See Appendix I.

manufacture weapons. All countries were furthermore forbidden to assist South Africa in the development of nuclear weapons.<sup>92</sup>

On 4 November 1977, the Security Council voted unanimously to impose a permanent and binding arms embargo against South Africa through Resolution 418, stating that the action was taken under Chapter VII of the United Nations Charter. Chapter VII is the section of the Charter that deals with sanctions. Resolution 418 read as follows:

*Recalling* its resolution 392 (1976) strongly condemning the South African Government for its resort to massive violence against and killings of the African people, including schoolchildren and students and others opposing racial discrimination, and calling upon that Government urgently to end violence against the African people and take urgent steps to eliminate *apartheid* and racial discrimination,

*Recognizing* that the military build-up and persistent acts of aggression by South Africa against the neighboring States seriously disturb the security of those States,

*Further recognizing* that the existing arms embargo must be strengthened and universally applied, without any reservations or qualifications whatsoever, in order to prevent a further aggravation of the grave situation in South Africa,

*Taking note* of the Lagos Declaration for *Action Against Apartheid* (S/12426),

*Gravely concerned* that South Africa is at the threshold of producing nuclear weapons,

*Strongly condemning* the South African Government for its acts of repression, its defiant continuance of the system of *apartheid* and its attacks against neighboring independent States,

*Considering* that the policies and acts of the South African Government are fraught with danger to international peace and security,

*Recalling* its resolution 181 (1963) and other resolutions concerning a voluntary arms embargo against South Africa,

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92. K. Teltsch, U.N. Council agrees on arms-ban terms against South Africa, *The New York Times*, 3 November 1977, p. 1; Anonymous, Security Council agrees on text for arms embargo, *The New York Times*, 4 November 1977, p. 9; Anonymous, U.N. in accord on S. African ban, *The Washington Post*, 3 November 1977, p. A21; Anonymous, Weste, Afrika nog haaks oor verbod, *Beeld*, 3 November 1977, p. 11; Anonymous, U.S. backs S. Africa arms ban, *Chicago Tribune*, 3 November 1977, p. 1.

*Convinced* that a mandatory arms embargo needs to be universally applied against South Africa in the first instance,

*Acting* therefore under Chapter VII of the Charter of the United Nations,

1. Determines, having regard to the policies and acts of the South African Government, that the acquisition by South Africa of arms and related material constitutes a threat to the maintenance of peace and security;
2. *Decides* that all States shall cease forthwith any provision to South Africa of arms and related materiel of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment, and spare parts for the aforementioned, and shall cease as well the provision of all types of equipment and supplies, and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;
3. *Calls* on all States to review, having regard to the objectives of this resolution, all existing contractual arrangements with and licenses granted to South Africa relating to the manufacture and maintenance of arms, ammunition of all types and military equipment and vehicles, with a view to terminating them;
4. *Further decides* that all States shall refrain from any cooperation with South Africa in the manufacture and development of nuclear weapons;
5. *Calls* upon all States, including nonmembers of the United Nations, to act strictly in accordance with the provisions of this resolution;
6. *Requests* the Secretary General to report to the Council on the progress of the implementation of this resolution, the first report to be submitted not later than 1 May 1978;
7. *Decides* to keep this item on its agenda for further action, as appropriate, in the light of developments.<sup>93</sup>

Although it was not specifically stated under which of articles in Chapter VII the Security Council acted, it was clear that it was under Articles 39 and 41. Article 39 states that the Security Council is responsible to determine if any threat to peace existed, or whether a breach of the peace or an act of aggression took place. It then has to make recommendations or decide on measures to be taken under Articles 41 and 42 to maintain or restore the international peace and security. Article 41 provides that the

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93. United Nations Security Council, *Resolution 418 (1977)*, 4 November 1977. See Appendix II for transcript.



Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, e.g. complete or partial interruption of economic relations and communication and the severance of diplomatic relations. The embargo was mandatory, meaning that all the members of the United Nations were obliged to abide by it, in comparison with the 1963 arms embargo to which adherence was voluntary. Non-adherence or violation by any United Nations member could lead to that member being suspended or expelled. The embargo could only be lifted by a Security Council vote.<sup>94</sup>

## 2.7 REACTION TO THE EMBARGO

The mandatory arms embargo instituted against South Africa marked the first time in the 32-year history of the United Nations that mandatory sanctions were applied to a member state. It also marked a major shift in policy by the US, Britain and France, who as recently as 1975 and 1976 had vetoed mandatory arms embargo resolutions against South Africa on the grounds that the South African Government did not constitute a threat to peace.<sup>95</sup> The institution of the embargo therefore drew worldwide attention and comments, indicating that it was indeed a major happening of the time.

Speaking just after the Security Council vote, Young remarked that a very clear message had been sent to South Africa through the institution of the embargo, namely that continuation on the course on which it had embarked, i.e. apartheid, would only lead to further strains on ties between South Africa and the rest of the international community. He called the institution of the mandatory arms embargo a stigma that would hopefully lead South Africa to end its policy of apartheid. He however added that if the South African Government showed a willingness to end apartheid and made

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94. Congressional Quarterly Incorporated, *Historic Documents of 1977*, p. 823; Anonymous, Security Council cited threats to peace, *The New York Times*, 5 November 1977, p. 7; K. Teltsch, U.N. Council orders arms-sale sanctions against South Africa, *The New York Times*, 5 November 1977, p. 1; Anonymous, U.N. imposes mandatory arms ban on South Africa, *Los Angeles Times*, 4 November 1977, p. 2; Anonymous, U.N. votes to embargo arms sales to S. Africa, *Chicago Tribune*, 5 November 1977, p. 2; Anonymous, Sanksies: dis finaal, *Die Vaderland*, 4 November 1977, p. 1.

95. Congressional Quarterly Incorporated, *Historic Documents of 1977*, p. 823; U.N. Council orders arms-sale sanctions against South Africa, *The New York Times*, 5 November 1977, p. 1.



progress in that direction, there might be reconciliation between the two countries.<sup>96</sup> In his own words: *"It is our fervent hope that the Government of South Africa will begin to talk and listen to its own people, black and white, Asian and colored, English- and Afrikaans-speaking, and work with them in moving away from the disaster which threatens that country."*<sup>97</sup>

In a memorandum as well as a press conference a few days after the Security Council vote, Vice President Mondale emphasized that the Carter Administration stood firm by its conviction that steps had to be taken against the South African Government to let it know that its disregard for human rights and dignity would not be tolerated by the rest of the world. Therefore, the imposition of the mandatory arms embargo was more than just a gesture. It represented a significant change in US policy. On the short term, the effect of the embargo and the US' own additions to it might be largely psychological, but on the long term it would deprive South Africa of certain materials. Furthermore, whatever materials South Africa might be able to obtain abroad, would be obtained with difficulty and at greater cost. He warned that the US was prepared to take further steps against South Africa should the latter still refuse to move away from its discriminative policy of apartheid. However, for the moment the Carter Administration decided against taking measures that would end trade and investment with South Africa, i.e. economic sanctions. He denied that the US had vetoed economic sanctions against South Africa on the basis of Western economic interests, saying that the US could have gone further, but that there was no international consensus for economic sanctions against South Africa. Moreover, it could result in South Africa's virtual isolation, possibly drove the South African Government to even greater defiance, and end whatever influence the US Government might have in bringing about peaceful change in South Africa. The arms embargo was therefore designed in part to give the US diplomatic flexibility to react as necessary to the situation in Southern Africa.<sup>98</sup>

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96. A. Young, U.N. Security Council condemns South Africa's Apartheid policy and imposes a mandatory arms embargo, *Department of State Bulletin*, 12 December 1977, pp. 864-865; Anonymous, U.N. votes permanent ban on sale of arms to S. Africa, *Los Angeles Times*, 5 November 1977, p. 1; Anonymous, Veiligheidsraad eenparig, *Beeld*, 5 November 1977, pp. 1-2.
97. As quoted in Anonymous, Move on SA seen as momentous, *Eastern Province Herald*, 5 November 1977, p. 2.
98. Carter Presidential Library and Archives (Atlanta), White House Central File, Subject File, CO 141, 1/20/1977-1/20/1981, Box CO-53, 7/1/77 - 5/30/78: *Memorandum*, P. Tarnoff to Vice President Mondale, 9 November 1977; Anonymous, Mondale warns of further action, *The Argus*, 7 November 1977, p. 13; Anonymous, Nog stappe kom as SA nie oppas, sê Mondale, *Die Volksblad*, 7 November 1977, p. 3.

Secretary of State Vance confirmed that the US was considering further steps against South Africa when he told a group of black leaders in Washington that the Carter Administration planned to increase its economic and diplomatic pressure on the South African Government. He said that the Carter Administration considered recalling all US commercial attachés from South Africa. However, the Carter Administration was not willing to decrease US diplomatic representation in South Africa by recalling the ambassador permanently. It was crucial to have an ambassador in South Africa to keep the Carter Administration up to date on developments in the country and to make policy recommendations. Vance furthermore again rejected a proposal to cease all cooperation on nuclear technology and research with South Africa, as it would hamper efforts by the US to get South Africa to agree to sign the nuclear non-proliferation treaty.<sup>99</sup>

The South African Government reacted angrily to the US announcement of a mandatory arms embargo, even before the Security Council endorsed it. On 26 October 1977, South African Defense Minister P.W. Botha reacted in a telephonic interview with the *New York Times*. He said that South Africa had a strong enough arms industry to surmount an international embargo in a way that will astonish those seeking an end to white rule in South Africa. He nonetheless added that a decision to impose a mandatory arms embargo against South Africa would deprive the latter's forces of some needed conventional arms, although it would not seriously weaken its overall fighting capacity. He said that only the US and the Soviet Union possessed the power to overwhelm South Africa, even if the latter was forced to produce all its own arms. Concerning Carter, Botha made some harsh comments. Apparently he did not think that Carter was capable of being President of the US, as he must surely have known that one cannot prescribe to another country how to go about its way. He added that he was of the opinion that the US was in a bad state of affairs on account of a temporary Government. Turning to Young, Botha said scornfully that he should attend some new school of diplomacy. Interestingly, the following day Botha denied that he had an interview with the *New York Times*. But he did not deny making the comments, saying that he had spoken to a reporter over the telephone under the impression that the latter only wanted some background information. He made it clear to the reporter that he was

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99. Anonymous, V.S.A. wil erger druk, sê Vance, *Die Oosterlig*, 8 November 1977, p. 1.

not willing to conduct a formal interview over the telephone, and therefore he could not accept any responsibility for the report.<sup>100</sup>

A few days later, P.W. Botha reacted again, saying that Carter's action of imposing a mandatory arms embargo against South Africa was not unexpected. He assured South Africans that they need not worry about the practical impact of a mandatory arms embargo. He said that the local arms industry was able to produce all the weapons needed for the protection of the country's borders. This included small arms as well as heavy artillery. In addition, the development and establishment of a local missile industry had been completed, and significant progress had been made in making the country's shipbuilding industry operative. Progress had also been made with the production of other strategic weapons, although he declined to say what these entailed. Thus, Botha reiterated, the South African armed forces would be able to cope with any attacks mounted by black forces, even if they were supplied and trained by the Soviet Union. But Commandant P.G. Marais, the Armscor chairman at the time, did not fully agree with Botha. He said that while South Africa was able to completely fulfill its own need of armaments for unconventional warfare, and almost completely in armaments for conventional means, the country was still not able to produce heavy bombers, ships and submarines. He doubted whether the country would be able in the future to manufacture these heavy equipment.<sup>101</sup>

Angry comments also came from Foreign Minister Pik Botha, who called Carter's policy with regard to South Africa "dangerous" and accused him of applying double standards. He vowed that South Africa would fight to the bitter end: "*We are prepared for anything. Our survival is at stake. What should we do, surrender? In order to become acceptable? We won't do it. If the only alternative is between surrendering and fighting*

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100. J.F. Burns, South Africa defies U.S. on arms, says it can surmount an Embargo, *The New York Times*, 27 October 1977, pp. A1, A9; Anonymous, Wapensanksies teen S.A. nie onverwags, *Die Volksblad*, 28 October 1977, p. 3; Anonymous, Verbod op wapens sal S.A. nie ondersit, *Die Burger*, 28 October 1977, p. 3; Anonymous, Sanksies sal S.A. nie knak – Botha, *Die Oosterlig*, 28 October 1977, p. 1; Anonymous, PW Botha ontken VSA-onderhoud, *Die Volksblad*, 28 October 1977, p. 1.

101. J. Foisie, South Africa views arms cutoff proposal calmly, *Los Angeles Times*, 29 October 1977, p. 6; Anonymous, SA kan nog nie bomwerpers en bote bou, *Die Vaderland*, 29 October 1977, p. 1; Anonymous, SA sells arms - Botha, *Eastern Province Herald*, 31 October 1977, p. 2; J. Theron, Defence Minister reacts to arms embargo: Local industry gives SA missile lead, *The Citizen*, 3 November 1977, p. 2.

*it out, then surely you need not doubt what we'll choose.*"<sup>102</sup> Nonetheless, he reiterated that there was no indication that the pressure on South Africa will decrease after the imposition of a mandatory arms embargo against the country. Rather, all the signs pointed to an increase in pressure on the country. On 4 November 1977, after the United Nations vote which imposed the mandatory arms embargo, Botha said that it was perhaps a good thing that South Africa now knew where it stood, i.e. that it was on its own and that it would have to struggle alone in order to survive. He said that the Carter Administration's decision to support the embargo would make it even more difficult to find possible solutions for the Southern African issues, as it will make South Africans more determined to defend their country. The embargo was therefore nothing else than an incitement of violence. He added that it was not so much the practical effect of the arms embargo that concerned South Africa. Rather, it was the principle involved. South Africa did not accept the embargo because it was not a case of morality. If it was, then the US should have asked for sanctions against more than half of the nations of the world where there was neither press freedom nor human rights.<sup>103</sup>

Prime Minister Vorster reacted to the arms embargo by saying that many of the threats against South Africa were pure bluff, and that it was his job to decide when the bluff would end. He vowed to continue to make it clear to the world that South Africa would not go any further in meeting the demands that were being made. Some changes would certainly be made internally in South Africa, not because the world demanded it, but because it was right and just. He also said that South Africa was the prize in the struggle for Africa between the West led by the US, and the Soviet Union. They wanted to take away what the people of South Africa rightfully owned. Therefore, South Africa would not be compromised and told how to run its own affairs. Further comments came from the South African Minister of Finance, Owen Horwood, and the leader of the Progressive Federal Party, Colin Eglin. Horwood said that the US ought to realize that it needed South Africa as a bastion to communism in Southern Africa, where strife and

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102. As quoted in Anonymous, S. Africa vows to fight on, calls U.S. two-faced on rights, *Chicago Tribune*, 29 October 1977, p. 1.

103. Anonymous, S. Africa vows to fight on, calls U.S. two-faced on rights, *Chicago Tribune*, 29 October 1977, p. 1; Anonymous, Pik Botha oor veto's: Druk op S.A. sal toeneem, *Die Burger*, 2 November 1977, p. 1; Anonymous, West vetoes sanctions against SA, *South African Digest*, 4 November 1977, pp. 1-3; Anonymous, Hypocrisy! Pik on UN arms ban, *The Citizen*, 5 November 1977, p. 1; Anonymous, 'Aanhitsing tot geweld', *Beeld*, 5 November 1977, p. 1; Anonymous, Verbod hits aan tot geweld, *Die Volksblad*, 5 November 1977, p. 5; Anonymous, South African Minister asserts arms ban may incite violence, *The New York Times*, 5 November 1977, p. 7.

chaos would only benefit communism. Eglin in turn said that the Carter Administration rushed in where angels feared to tread. He nonetheless had the impression that the statements and actions of the US were more concerned with posturing than with reform.<sup>104</sup>

The South African Ambassador in the US, Donald Sole, reacted to the embargo by warning that the pressure that the embargo instilled on South Africa would not encourage those in South Africa who were in a position to influence the policy of apartheid. Rather, the way in which South Africa was pressurized in the foregoing weeks could have an opposite effect of defiance and an even more hard lined policy. Leaders of commerce and industry in South Africa also reacted, noting that the US arms embargo against South Africa would only strengthen the latter's resistance to outside interference in its internal affairs. Some felt that the embargo would have a hardening effect against the US and its products. Others were of the opinion that the embargo was an attempt to please the Third World. Many doubted that anything significant would come out of the embargo, other than strengthening resistance to the outside world.<sup>105</sup>

The most prominent South African Zulu leader, Mangosuthu Buthelezi, applauded the arms embargo, saying that it was an important symbolic gesture. He believed that it was the nudge South Africans needed to move toward change. South Africa was at the crossroads of escalating violence and non-violent change; therefore, it was time for South Africans to get their minds of shooting one another and hasten the process of change. Nevertheless, he was of the opinion that the embargo would only have limited effect in practice, since South Africa was by far the strongest military power on the African continent. He stressed that whether black South Africans were for or against violence, the fact was that they had no weapons, and it was clear that Vorster was prepared for violence leading to suicide.<sup>106</sup>

The South African press had a mouthful to say about the embargo in their editorials. The Afrikaans newspapers argued that the embargo would open the door for further

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104. Anonymous, West vetoes sanctions against SA, *South African Digest*, 4 November 1977, pp. 2-3.  
105. M. Eorwine, US embargo 'would harden SA line', *The Citizen*, 1 November 1977, p. 5; Anonymous, Veranderinge kom na 30 Nov., sê S.A. gesant, *Die Volksblad*, 5 November 1977, p. 3.  
106. Anonymous, SA arms ban 'symbolic only', *The Friend*, 21 November 1977, p. 13; Anonymous, Arms embargo 'nudge' applauded, *The Daily News*, 22 November 1977, p. 2.

sanctions and that the future of whites in South Africa was at stake. In the light of this, South Africans were urged to unity and defiance, whatever the cost, in order to withstand the meddling of the outside world in the country's internal affairs. There was general agreement that the embargo was aimed at weakening the South African Government, thereby opening the door for the Soviet Union to gain a foothold.<sup>107</sup> The pro-Government English newspaper *The Citizen* responded hotly, stating that Carter was fooling himself if he thought that South Africa would just crumble before his remarks. The paper accused Young of being two-faced and a black racist: "*He is not motivated by human rights; he is motivated by the color of his skin*".<sup>108</sup> Finally, the editor asked if the banning of two newspapers and 18 organizations represented such a gross crime when considered that 80 percent of the world did not have a free Press. It listed several countries where gross atrocities against human rights were being committed, against whom no steps had been taken yet.<sup>109</sup>

The response of other English newspapers was not as harsh. The majority felt that the embargo was a threat to South Africa's independence, but the South African Government nonetheless had to move fast to bring about reform in the country. However, the external pressure would hardly encourage reform. In agreement with the general feeling among the Afrikaans newspapers, the English ones also expected that the embargo would only lead to the unification of all South Africans who felt that their survival was being threatened. Some of the more liberal newspapers ventured even further by asking why the US picked on South Africa, when there were other countries that were undemocratic and even fascist in a murderous way. Different from *The Citizen* though, *The Argus* offered an answer to this question, namely that the South African Government dared to treat only white people as full human beings through countless

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107. Anonymous, Nog hou (Editorial), *Beeld*, 4 November 1977, p. 10; Anonymous, Die begin van 'n proses (Editorial), *Die Oosterlig*, 31 October 1977, p. 8; Anonymous, Wapenverbod se wekstem (Editorial), *Die Transvaler*, 5 November 1977, p. 6; Anonymous, Onberekende nagevolge (Editorial), *Die Vaderland*, 2 November 1977, p. 18; Anonymous, Moet SA nog saamwerk? (Editorial), *Die Vaderland*, 8 November 1977, p. 12; Anonymous, Gevaarlike presedent (Editorial), *Die Volksblad*, 4 November 1977, p. 14; Anonymous, Eendragtig in weerstand (Editorial), *Die Volksblad*, 7 November 1977, p. 14; Anonymous, Glibberige paai-paadjie (Editorial), *Die Volksblad*, 8 November 1977, p. 10; Anonymous, Beste Antwoord (Editorial), *Oggendblad*, 29 October 1977, p. 8.
108. As quoted in Anonymous, The arms embargo (Editorial), *The Citizen*, 29 October 1977, p. 6. Note: These strong-worded accusations of Young was not at all accurate. Young has worked his whole life for racial integration and cooperation, not any sort of "black power" (A.J. DeRoche commenting on this study).
109. Anonymous, The arms embargo (Editor), *The Citizen*, 29 October 1977, p. 6; Anonymous, A threat to peace (Editorial), *The Citizen*, 31 October 1977, p. 6; Anonymous, Young gets his arms ban (Editorial), *The Citizen*, 5 November 1977, p. 6; Anonymous, Threats to world peace (Editorial), *The Citizen*, 7 November 1977, p. 6.

laws against non-white people. The South African Government regarded its motives as nationalistic and radicalistic, but the arms embargo was a clear indication that the rest of the world could not see the difference, because the consequences were the same, namely the deprivation of human rights.<sup>110</sup>

The US newspapers' reaction to the arms embargo varied markedly from the South African newspapers' response. *The Washington Post* commented that although the embargo was particularly symbolic for the US as one of the countries that had fairly conscientiously adhered to the voluntary 1963 arms embargo, the mandatory embargo came too late to have any significant effect on South Africa's ability to wage a conventional or guerrilla war. They reported that while South Africa was not fully self-sufficient in the production of heavy arms, it already produced a wide variety of small arms as well as a surface-to-air missile. The *Chicago Tribune*, *Los Angeles Times* and *The New York Times* largely agreed, reporting that some diplomats and other experts doubted that the embargo would have much effect as South Africa produced at least 60% of its own armament needs. Some even estimated the production at 75%, and foresaw that South Africa could eventually become totally self-sufficient in arms production. Nevertheless, the majority of the US newspapers agreed that the significance of the imposition of the arms embargo should not be underestimated. It reflected a sharp, though slow switch from the official US policy in the preceding years. It at least gave notice to the South African Government of the world's dismay at its suppression of moderate black opposition.<sup>111</sup>

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110. Anonymous, Why pick on us? (Editorial), *The Argus*, 28 October 1977, p. 20; Anonymous, The arms ban (Editorial), *The Natal Witness*, 29 October 1977, p. 29; Anonymous, Carter's grave move (Editorial), *The Cape Times*, 31 October 1977, p. 8; Anonymous, Off the hook – but still wriggling (Editorial), *Pretoria News*, 1 November 1977 in Comment & Opinion, *South African Digest*, 4 November 1977, pp. 21-23; Anonymous, Less stick, more carrot (Editorial), *Financial Gazette*, 4 November 1977, p. 7; Anonymous, A lesson from a friend (Comment), *Sunday Tribune*, 6 November 1977, p. 28; Anonymous, Smoke screens (Editorial), *The Friend*, 8 November 1977, p. 8.
111. D.B. Ottaway, Arms ban too late to hurt S. Africa, *The Washington Post*, 28 October 1977, pp. A1, A9; Editor, A South African arms embargo, *Chicago Tribune*, 29 October 1977, p. 8; Anonymous, U.N. imposes mandatory arms ban on South Africa, *Los Angeles Times*, 4 November 1977, p. 2; Anonymous, U.N. votes permanent ban on sale of arms to S. Africa, *Los Angeles Times*, 5 November 1977, p. 1; Anonymous, UN votes to embargo arms sales to S. Africa, *Chicago Tribune*, 5 November 1977, p. 2; Editor, Slow squeeze on South Africa, *The New York Times*, 5 November 1977, p. 20.



## 2.8 CONCLUSION

Jimmy Carter faced a difficult task when he took office as President of the US in January 1977: human rights activists worldwide expected him to take serious action against the South African Government because of its policy of apartheid. In addition, after a relatively quiet period in the first few years of the 1970s, the situation in South Africa exploded once more in 1976 with the Soweto uprising. Carter declared himself a fierce supporter of human rights, and vowed that he would do anything in his power to act against violators of human rights. The question was, did he seriously mean to take action or was it again just the same rhetoric that previous US Governments made themselves guilty off?

When the first ten months of the Carter Administration is scrutinized, it becomes clear that he was a bit more serious than his predecessors in his intentions to take action against South Africa. There is no doubt that the style of US policy towards South Africa changed. Carter applied a bit more stick to South Africa, in comparison with the Ford Administration who offered more carrot in an effort to gain South African support for Kissinger's Southern African initiatives. At first, only the changes in the style of US policy towards South Africa were visible, e.g. the appointment of proponents of human rights and racial equality in top positions in the Carter Administration, the foreign policy review that was ordered early in the Administration, the statements and opinions by the top members of the Carter Administration, etc. This was possibly to first register the message that relations between the US and South Africa were bound to deteriorate rapidly if South Africa did not start to walk on a road of domestic reform.

Substantive changes were not so clear at first. It was only after the arms embargo hearing in July 1977 that the first indications of action surfaced, i.e. when the Carter Administration through an executive order moved to end all grey-area sales to South Africa that had been permitted during the Nixon and Ford Administrations. Relations between the US and South Africa deteriorated further after the Soviet allegations of a nuclear site being built by South Africa in the Kalahari Desert. For the first time in the history of the Cold War, the US and the Soviet Union took a combined stand against South Africa. These events, along with Mondale's strong anti-apartheid stance during his meeting with Vorster in Vienna in May 1977, should have warned the South African Government that its old argument of being an anti-communist ally to the West would



probably not save it from action this time. Instead, the South African Government answered with increasing defiance and bitter comments directed at the Carter Administration. The renewed defiance culminated first in the death of Steve Biko in police custody and then in a crackdown on two leading black newspapers, eighteen black and interracial organizations and several prominent individuals.

The South African Government had shot itself in the foot with its hard-line policy, and the international outcry for punitive action became almost deafening. Carter had almost no choice but to act in some way. Interestingly, despite being fiercely outspoken on human rights, the Carter Administration still refused to impose anything more than a mandatory arms embargo against South Africa. Indeed, it was even reluctant to brand the situation in South Africa as being a threat to international peace and security under Chapter VII of the United Nations Charter. The only leniency that it gave in this regard, was that the supply of arms to South Africa was becoming a threat to international peace and security. Although Mondale and Vance made utterances of possible further steps against South Africa if the latter did not heed the warning constituted by the mandatory arms embargo, the fact is that the embargo did not really constitute anything new as far as US policy towards South Africa was concerned. On the contrary, the US had rather strictly adhered to the 1963 arms embargo, despite some weakening by the Nixon and Ford Administrations.

In the light of the above, one cannot help but wonder if the Carter Administration actually believed that a mandatory arms embargo would convince the South African Government to change its racial policies. It does not seem that way. Rather, it seems that it was again just a case of anti-apartheid rhetoric, disguised under a shadow of nothing more than very limited action on the part of the US Government. On the other hand, the limited action was perhaps because of the Carter Administration's desire to retain diplomatic flexibility, or maybe the desire to succeed with a settlement in Rhodesia. As stated at the beginning of this Chapter, the major effort by the Carter Administration to obtain a settlement in Rhodesia limited how much they could work on in South Africa. However, one cannot disregard the fact that the embargo was imposed under Chapter VII of the United Nations Charter, making it a symbolic act of significant importance at the time. One only need to study the array of newspaper articles that appeared in the last quarter of 1977 to fully realize the importance that the embargo carried at that point in history.

## CHAPTER 3

### THE IMPLEMENTATION OF THE MANDATORY ARMS EMBARGO BY THE CARTER ADMINISTRATION, 1977-1980

#### 3.1 INTRODUCTION

As discussed in the previous chapter, a mandatory arms embargo was imposed against South Africa on 4 November 1977, when the Security Council passed Resolution 418 to this effect. The 1977 arms embargo differed from the 1963 arms embargo against South Africa in the sense that members of the United Nations were now under legal obligation to enforce the embargo. Article 41<sup>1</sup> of Chapter VII of the United Nations Charter at the time of the embargo granted members of the United Nations self-executing legal obligation, as no body existed in the organization to enforce the measures instituted under it. Concerning the US, its Constitution contains a supremacy clause that makes the United Nations Charter, as a ratified international treaty, the supreme law of the land. Therefore, both the executive and legislative branches of the US Government considered the sanction portions of Article 41 binding once the Security Council acted without veto. In other words, Security Council resolutions could be enforced in US domestic courts. Resolution 418 (1977) was instituted under Chapter VII, Article 41. However, Resolution 418 (1977) did not mention technicalities. It merely stated that the export of 'all arms and related material of all types' to South Africa were banned. It was therefore not immediately clear, for example, whether the embargo would apply to a civilian vehicle that could easily be adapted for military use. There was also uncertainty over interpreting existing contracts and licenses for manufacturing or maintaining weapons in South Africa.<sup>2</sup>

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1. Article 41 reads: "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations." *Charter of the United Nations*, Chapter VII: Action with respect to threats to the peace, breaches of the peace, and acts of aggression. (See Appendix I for complete transcript).
  2. Western Massachusetts Association of Concerned African Scholars (WMACAS), *U.S. military involvement in Southern Africa*, pp. 233-234; Armscor Archives (Pretoria), Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: *Conference Paper*, U.S. arms embargo against South Africa, April 1978, pp. 48-49.

In the light of the above, it is clear that to be of practical value, Resolution 418 had to be translated into laws and regulations by the member countries, if their national legislation were not already conforming to the embargo. Thus, Governments of the member states were free to define what items they deemed to fall under the jurisdiction of the embargo, as long as all items that was obviously weapons was included. Punishment of violators was left completely to national authorities. In the US, laws and regulations of the trade in arms and arms technology were already in existence, thereby providing a legal basis for implementing the mandatory arms embargo<sup>3</sup>. For the purposes of US law, 'arms and related material' were defined as including all items and related technical data on the US Munitions List, as well as other items with a military application not on the Munitions List, including technical data relating to such items. 'Arms and related material of all types' were also considered to include defense articles and services sold on a government-to-government basis under the US foreign military sales program, whether or not such articles and services involved items or data on the Munitions List.<sup>4</sup> The Carter Administration added to these regulations in 1978, by forbidding the export of any US-origin item or technical data to the South African military and police, as will be discussed later in this Chapter.<sup>5</sup>

### **3.2 US-SOUTH AFRICAN RELATIONS IN THE FIRST FEW MONTHS AFTER THE INSTITUTION OF THE MANDATORY ARMS EMBARGO**

Relations between the US and South Africa after the arms embargo was instituted was discussed for the first time on 11 November 1977 in a meeting between Zbigniew Brzezinski, Carter's National Security Advisor, Brand Fourie, the South African Secretary for Foreign Affairs, and Donald Sole, South African Ambassador to the US. Fourie was concerned about where the US-South African relationship was heading after the institution of the arms embargo. He indicated that South Africa without doubt wished for good relations, but was uncertain whether it was still possible. One dilemma rested on the South African understanding that the independence of Rhodesia and South West Africa (Namibia) were seen as priority items to the US, and that if there were reasonable

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3. See Chapter 2, Section 2.4, pp. 65-68.

4. M. Brzoska, Arming South African in the shadow of the UN arms embargo, *Defense Analysis* 7(1), March 1991, pp. 21-22; United Nations, Security Council, *Report* of the Security Council Committee established by Resolution 421 (1977) concerning the question of South Africa on ways and means of making the mandatory arms embargo against South Africa more effective, p. 18.

5. See Section 3.3.

progress on these issues, then South Africa would have time to evolve with respect to the apartheid situation. However, it now seemed that these issues have slipped backward and that the domestic considerations of South Africa moved to the forefront. The United Nations' action of instituting a mandatory arms embargo against South Africa complicated matters, also as far as the South African nuclear development issue was concerned. He asked what the use was of making progress on the nuclear issue or on some other issue, if it was to be overturned in a couple of months by United Nations action or some unilateral action by, for example, the US. He concluded by saying that South Africa needed a period of some months to allow things to settle down.<sup>6</sup>

Brzezinski answered Fourie by saying that he had correctly identified the four issues that faced the US. There was indeed a pre-disposition by the US to give each of these issues different degrees of urgency. However, the Carter Administration felt that certain issues in South Africa had to be the issue of a progressive transformation towards participation by all people in the society, because of the national and international consequences if it did not happen. Concerning the nuclear issue, Brzezinski said that the Carter Administration had thought that it had been contained by the assurances given by the South African Government, but then suddenly some doubt arose. It was therefore important to the US that in the light of the mandatory arms embargo, the South African Government would not dwindle from its assurances regarding nuclear matters. Furthermore, the death of Steve Biko and the crackdown of the South African Government on 19 October 1977 provoked a considerable amount of opposition in the US. This opposition was even more provoked as a result of a new crackdown by the South African Police on black dissidents on 10 November 1977. More than 600 black people, including 100 school children, were arrested for reasons varying from pass law offenses to children needing care. In the light of this, Brzezinski said he could not see how South Africa could be granted a period of some months for things to settle down,

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6. Carter Presidential Library and Archives (Atlanta), National Security Affairs, Brzezinski Material Subject File, Box 33, Memcons, Brzezinski October 1977 – August 1978: *Memorandum of Conversation*, Discussion between Dr. Brzezinski and Brand Fourie, Secretary for Foreign Affairs, South Africa, 11 November 1977.

unless steps was taken to undo the acts of 19 October and other positive acts in the context of black-white relations in South Africa.<sup>7</sup>

The South African Minister of Economic Affairs, J.C. Heunis, placed further new strain on US-South African relations a few days after the institution of the arms embargo through an announcement that South Africa, if forced to do so, would implement the National Supplies Procurement Act of 1970 to compel domestic or foreign companies to manufacture or supply military supplies to counter the mandatory arms embargo. The Act also included powers to seize, without legal process nor compensation, any goods from private citizens. South African subsidiaries of foreign firms were considered local companies and were therefore subjected to local regulations. The US Department of State regarded the announcement in a serious light, noting that it yet could have another detrimental development in relations between the US and South Africa. However, for the time being it was to be dealt with within the basic framework of the relations between the two countries, which in fact dictated a period of re-examination of US policy toward South Africa following the institution of the mandatory arms embargo.<sup>8</sup>

In early December 1977, Andrew Young, the US Ambassador at the United Nations, agreed with the above stance of the Department of State when he suggested in a television interview that the US ought to wait a month or so before any further steps were taken against South Africa. However, the statement did not go down well in the Security Council, which called an urgent meeting on 9 December 1977 to set up machinery for the supervision of the arms embargo.<sup>9</sup> A resolution establishing a Special Committee of the Security Council, consisting of all the members of the Council, was accepted at the meeting. The Committee was tasked with examining the Secretary-General's report on the progress of the implementation of the arms embargo, which was

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7. Carter Presidential Library and Archives (Atlanta), National Security Affairs, Brzezinski Material Subject File, Box 33, Memcons, Brzezinski October 1977 – August 1978: *Memorandum of Conversation*, Discussion between Dr. Brzezinski and Brand Fourie, Secretary for Foreign Affairs, South Africa, 11 November 1977; Anonymous, S. Africa arrests 600 Blacks, expands powers, *The Washington Post*, 11 November 1977, p. A23.
  8. Anonymous, Foreign firms in S. Africa reportedly may be forced to manufacture weapons, *Los Angeles Times*, 6 November 1977, p. 5; Anonymous, S. Africa arrests 600 Blacks, expands powers, *The Washington Post*, 11 November 1977, p. A23; Anonymous, New strain on US-SA relations, *The Argus*, 11 November 1977, p. 2.
  9. Anonymous, VSA moet druk op SA eers staak, sê Young, *Die Volksblad*, 5 December 1977, p. 15; H. Robertson, New U.N. call: Urgent meeting on SA this week, *Pretoria News*, 6 December 1977, p. 3.

requested when the embargo was instituted; studying ways and means by which the mandatory arms embargo could be made more effective and making recommendations in this regard to the Security Council; and seeking further information from all United Nations member states regarding the action taken by them concerning the effective implementation of the provisions laid down in Resolution 418 (1977).<sup>10</sup>

Also in December 1977, in an effort to pressurize the Carter Administration to officially stiffen regulations against South Africa, the Committee on International Relations in the US House of Representatives proposed a bill to amend the Foreign Assistance Act of 1961 to prohibit the assignment of international security assistance management teams, defense attachés, or other US Armed Forces personnel to South Africa. The Department of State however objected to the proposed bill, saying that since 1963, South Africa had never been the recipient of US military assistance of any category. Therefore, there was no question on the assignment of international security management teams to South Africa. Furthermore, in addition to supporting a mandatory arms embargo at the United Nations, the Carter Administration had promised to expand the US voluntary embargo to include any exports destined to the South African military and police, as well as spare parts and maintenance equipment for prohibited items; recalled the US commercial officer from South Africa; and withdrew the US naval attaché from South Africa. However, after careful review, it was decided not to withdraw other defense attachés from South Africa because of the need for military intelligence from the region provided by the US military attaché personnel assigned to South Africa. Moreover, blanket prohibition against assigning US Defense Department personnel to South Africa would prevent the use of US Marine security guards at the US Embassy and Consulates in South Africa. According to the State Department, these guards provided an essential service in security to the US Mission in South Africa, which would be difficult to replace.<sup>11</sup>

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10. United Nations Security Council, *Resolution 421* (1977), 9 December 1977; Anonymous, Call for body to oversee arms embargo, *The Star*, 7 December 1977, p. 27.

11. Carter Presidential Library and Archives (Atlanta), White House Central File, Subject File CO 141, Box CO-53, July 1977 – May 1978: *Legislative Referral Memorandum*: Executive Office of the President to Legislative Liaison Officer & National Security Council, Department of Defense, 21 December 1977.

It is clear from the above that by January 1978, the Carter Administration was still trying to find its feet in practically implementing the arms embargo. Shortly afterwards, however, an active step was taken in that direction.

### **3.3 US REGULATIONS FOR THE IMPLEMENTATION OF THE MANDATORY ARMS EMBARGO**

At the time the mandatory arms embargo was instituted, the US had the most extensive and detailed legislation for regulating arms exports in the world. In 1954, the US Congress passed the Mutual Security Act, which established policy for the exchange of technical defense-related information and military hardware with foreign countries. The aim of the legislation was to ensure US military exports to allied countries and the prevention thereof to communist countries. In 1976, this act was replaced by the Arms Export Control Act and a set of regulations by which it would be implemented, namely the International Traffic in Arms Regulations (ITAR). ITAR provided the statutory/regulatory basis for controlling the export and import of arms. The arms were listed in a Munitions List under 21 categories designated as arms, ammunition and implements of war. The 21 categories were as follows:

Category I	Firearms
Category II	Artillery projectors
Category III	Ammunition
Category IV	Launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs and mines
Category V	Explosives, propellants and incendiary agents
Category VI	Vessels of war and special naval equipment
Category VII	Tanks and military vehicles
Category VIII	Aircraft, spacecraft and associated equipment
Category IX	Military training equipment
Category X	Protective personnel equipment
Category XI	Military and space electronics
Category XII	Fire control, range finders, optical and guidance and control equipment
Category XIII	Auxiliary military equipment



Category XIV	Toxicological agents and equipment and radiological equipment
Category XV	Reserved
Category XVI	Nuclear weapons design and test equipment
Category XVII	Classified articles not otherwise enumerated
Category XVIII	Technical data
Category XIX	Defense services
Category XX	Submersible vessels, oceanographic and associated equipment
Category XXI	Miscellaneous articles

Licenses for the export of any of these items had to be obtained from the Office of Munitions Control in the Department of State. Because of the arms embargo instituted against South Africa in 1963, exports of items on the Munitions List to that country were relatively few. Nonetheless, South Africa had been able to obtain items from this list due to its status on the country list attached to the Munitions List. The country list divided all countries into certain categories according to their suitability as receivers of US military equipment. South Africa was listed under Category 5, entitled 'friendly non-allied countries', in other words, anti-communist. In addition to the Munitions List, two other lists contained the official US definition of strategic goods. The Commodity Control List was handled by the Department of Commerce and was based on the Export Control Act, comprising dual-use or grey area equipment<sup>12</sup> not included in the Munitions List. The Military Critical Technologies List (MCTL) was handled by the Department of Defense and was a catalogue of modern technologies with military application. South Africa was also able to obtain items from these lists as a result of its status on the country list.<sup>13</sup>

In November 1977, just before the mandatory arms embargo was instituted, the Carter Administration promised new regulations to more effectively enforce the export of military-related items to South Africa. The new regulations were aimed at prohibiting all

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12. Grey area items encompass materials of a non-military nature that could be converted on short notice to military or police use, e.g. light airplanes, specialized computer systems, certain electronic components and strategic spare parts. See D. Myers III, *et. al.*, ***U.S. Business in South Africa: The economic, political and moral issues***, p. 131.

13. S. Landgren, ***Embargo disimplemented: South Africa's military industry***, pp. 201-203.

exports to the South African military forces or police; even grey area equipment that had no clear or direct application for the military or police.<sup>14</sup> In other words it meant, according to a Department of Commerce official: "*literally anything as trivial as paper clips or toilet paper that might be destined for use by the South African military or police*".<sup>15</sup>

On 16 February 1978 the Carter Administration announced the promised revisions to export control regulations against South Africa. The revisions officially imposed an embargo on exports and re-export of US-origin commodities and unpublished technical data, except data generally available to the public, to or for use by military or police entities of South Africa and South West Africa (Namibia). The purpose of the revisions was to further US foreign policy regarding the preservation of human rights and to strengthen the US implementation of the United Nations Security Council Resolutions of 1963 and 1977. The new revisions went beyond the requirements of the Security Council Resolution 418 (1977), a fact also acknowledged by Armscor. According to Armscor, what made the new regulations in essence more serious and different than Resolution 418 (1977) was that the latter was only directed at South Africa, while the US regulations specifically mentioned the South African military and police as well as the military and police in South West Africa (Namibia), because of the South African administration of the territory.<sup>16</sup>

The new restrictions also prohibited recipients of technical data in South Africa and South West Africa (Namibia) to sell or make available, directly or indirectly, the direct product of the data to military and police entities. In order to enforce the arms embargo, certain parts of the Export Administration Regulations were revised to prohibit the use

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14. D. Shannon, U.S. plans tighter S. Africa embargo, *Los Angeles Times*, 12 November 1977, p. 15; Armscor Archives (Pretoria), Division Main Management, Foreign Relations & Organization: Embargo, File 1/17/1, Volume 4: **Policy Review**, U.S. exports to South Africa: The tough choice, The Heritage Foundation, 1 March 1982.
  15. As quoted in D. Myers III, *et. al.*, **U.S. Business in South Africa: The economic, political and moral issues**, p. 131.
  16. Armscor Archives (Pretoria): Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: **Document**, United States Department of Commerce Export Administration Bulletin, 16 February 1978; Sanctions and Arms Embargoes, Box 5, File 7, Presentations: **Presentation** to the Scientific Committee of the State Defense Council on military sanctions and the arms embargo, 7 May 1979; Division Main Management, Foreign Relations and Organization: Embargo, File 1/17/1, Volume 4: **Memorandum**, Embargo deur VVO teen RSA, 28 September 1979; Division Main Management, Foreign Relations and Organization: Embargo, File 1/17/1, Volume 4: **Report**, Secretary-General on the implementation of Security Council Resolution 473 (1980), Annexure II: Replies received from states, 12 September 1980.

of any general license authorization or special licensing procedure to export or re-export commodities where the exporter or re-exporter knew or had reason to suspect that the commodities were intended for delivery, directly or indirectly, to or for use by or for military or police entities in South Africa or South West Africa (Namibia). This included commodities to service equipment owned, controlled or used by such entities. Foreign consignees, warehouses, distributors, end-users, exporters and service facilities utilizing the special licensing procedures were required to certify that commodities received under a particular licensing procedure would not be sold or used contrary to the arms embargo. This certification had to be submitted to the US Office of Export Administration with new applications for special licenses and in support of current special licenses before additional goods may be shipped under these licenses.<sup>17</sup>

A further section of the Export Administration Regulations were revised to prohibit the use of general licenses where the exporter or re-exporter knew or had reason to suspect that the technical data or any products of the data were intended for delivery, directly or indirectly, to or for use by military or police entities in South Africa or South West Africa (Namibia), or for use in servicing equipment owned, controlled or used by such entities. Products of the technical data included direct products manufactured from the data, as well as any subsequent products of the direct product. Recipients of technical data exported or re-exported to South Africa or South West Africa (Namibia) under general licenses were also prohibited to provide, directly or indirectly, the direct product of the data to military and police entities in these countries. The section was further revised to prohibit the use of general licenses to export or re-export technical data relating to arms, munitions, and military equipment and materials, including materials and equipment for their manufacture and maintenance, to any consignee in South Africa and South West Africa (Namibia).<sup>18</sup>

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17. Armscor Archives (Pretoria): Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: **Copy** of United States Department of Commerce Export Administration Bulletin, 16 February 1978; Sanctions and arms embargoes, Box 5, File 7, Presentations: **Presentation** to the Scientific Committee of the State Defense Council, military sanctions and the arms embargo, 7 May 1979; D. Myers III, *et. al.*, **U.S. Business in South Africa: The economic, political and moral issues**, p. 131.

18. Armscor Archives (Pretoria): Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: **Copy** of United States Department of Commerce Export Administration Bulletin, 16 February 1978; Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: **Conference Paper** on U.S. arms embargo against South Africa, April 1978, p. 44.

Another part of the Export Administration Regulations were revised to require exporters or their agents to enter a special destination control statement on all copies of bills of lading, air waybills and commercial invoices covering exports to South Africa or South West Africa (Namibia). This statement was required for all validated license and applicable general license exports. The statement specifically prohibited resale to or delivery of the commodities or technical data involved to or for use by the police or military entities in South Africa or South West Africa (Namibia). Furthermore, the Special Country Policies and Provisions of the Export Administration Regulations were revised to reflect the policy changes announced in the revision. Finally, the Commodity Control List was revised to indicate that commodities otherwise eligible for export to South Africa and South West Africa (Namibia) under a general license named G-DEST would require a validated export license if they were for delivery to or for use by military or police entities in South Africa or South West Africa (Namibia), or for use in servicing equipment owned, controlled or used by these entities.<sup>19</sup>

A savings clause in the new regulations stated that exports and re-exports of commodities and technical data for the servicing of equipment owned, controlled or used by or for military or police entities in South Africa and South West Africa (Namibia) may continue for a period of two months from the effective date of the new regulations. The provision for this was however that such servicing ought to be pursuant to a contract or other legal commitment in effect on the effective date of the new regulations. Only commodities and technical data necessary for the repair of such equipment during such a two-month period may be exported or re-exported during this period. Technical data and commodities including spare parts for future use or for the upgrading of the capacity or performance of such equipment may not be made available during this period. Those affected by this provision should notify their customers to make alternate arrangements for servicing after the end of this two-month period.<sup>20</sup>

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19. Armscor Archives (Pretoria): Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: **Copy** of United States Department of Commerce Export Administration Bulletin, 16 February 1978; Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: **Conference Paper**: U.S. arms embargo against South Africa, April 1978, p. 44; Sanctions and arms embargoes, Box 5, File 7, Presentations: **Presentation** to the Scientific Committee of the State Defense Council on military sanctions and the arms embargo, 7 May 1979.
  20. Armscor Archives (Pretoria): Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: **Copy** of United States Department of Commerce Export Administration Bulletin, 16 February 1978.

Concerning foreign-based US warehouses, an exporter was authorized to stock commodities abroad at a central location for distribution to customers in the country where the stock was located or in other countries; to ship commodities directly from the US to these customers to fill an urgent need or a specialized requirement that could not be filled from the foreign-based stock; or to ship directly from the US to these customers parts or components not stocked abroad to be used to repair equipment originally exported by the US exporter. However, this procedure was subject to the South African and South West Africa (Namibia) limitations as described above.<sup>21</sup>

In addition to the existing regulations prohibiting the sale of any military-related equipment to South Africa, the following commodities were specifically prohibited for export or re-export to South Africa and South West Africa (Namibia):

- Parts to service commodities related to nuclear weapons, nuclear explosive devices or nuclear testing;
- Parts to service arms, ammunition or implements of war;
- Parts to service commodities subject to the US Atomic Energy Act;
- Parts to service any equipment owned, controlled or used by or for a military or police entity in South Africa or South West Africa (Namibia);
- Spindle assemblies, consisting of spindles and bearings as a minimal assembly, except those for lathes, turning machines, milling machines, boring mills, jig grinders and machining centers;
- Equipment for the production of military explosives and solid propellants, i.e. complete installations and specialized components, e.g. dehydration presses, extrusion presses for the extrusion of small arms, cannon and market propellants, cutting machines for the sizing of extruded propellants, sweetie barrels (tumblers) 6 feet and over in diameter and having over 500 pounds product capacity, and continuous mixers for solid propellants;
- Specialized machinery, equipment, gear, and specifically designed parts and accessories therefore, specially designed for the examination, manufacture, testing, and checking of the arms, ammunition, appliances, machines, and implements of war;

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21. Armscor Archives (Pretoria), Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: **Copy** of United States Department of Commerce Export Administration Bulletin, 16 February 1978.

- Construction equipment built to military specifications, specially designed for airborne transport;
- Vehicles specially designed for military purposes, e.g. military repair shops specifically designed to service military equipment; all other specially designed military vehicles; pneumatic type casings (excluding tractor and farm implement types) of a kind specially constructed to be bullet-proof or to run when deflated; engines for the propulsion of the vehicles mentioned, specially designed or essentially modified for military use; and specially designed components and parts to the foregoing;
- Pressure re-fuellers, pressure refueling equipment, and equipment specially designed to facilitate operations in confined areas and ground equipment developed specially for aircraft and helicopters, and specially designed parts and components, etc.
- Specifically designed components and parts for ammunition, except cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines;
- Nonmilitary shotguns, barrel length 18 inches and over; and nonmilitary arms, discharge type (e.g. stun-guns, shock batons, etc.), except arms designed solely for signal, flare, or saluting use, and parts.
- Shotgun shells and parts.<sup>22</sup>

In March 1978, the US Department of Defense followed up on the new revisions by setting down policy guidelines for official relations with South Africa. In the memorandum detailing these guidelines, the Department stated that the racial policies of the South African Government resulted in a gradual deterioration in relations between South Africa and most nations of the world, including the US. Nonetheless, no evidence existed at the time that the South African Government was likely to alter its policies sufficiently to reverse the trend towards increasingly strained relations with the US in the near future. Accordingly, based on the 1977 mandatory arms embargo and the recent revisions of the Export Administration Regulations, it was deemed essential that no actions or statements by officials or elements of the Department of Defense

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22. Armscor Archives (Pretoria), Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: *Copy* of United States Department of Commerce Export Administration Bulletin, 16 February 1978.

presented even the appearance of a new or higher level of cooperation between the US and South Africa. Accordingly, the following guidelines on US-South African military contacts were imposed:

- The US Air Force Eastern Test Range Tracking Station near Pretoria were not to be used without clearance from the Secretary of Defense or his subordinate;
- Specially instrumented aircraft of the US Air Force and Navy, designed to collect geomagnetic or satellite telemetry data, were not to be staged out of South Africa without clearance from the Secretary of Defense or his subordinate, which could be anticipated only if the mission was essential to US national interests and could not be performed by other means;
- US Navy ships were prohibited from using South African port facilities without clearance from the Secretary of Defense or his subordinate, unless such use was demanded by emergency conditions and circumstances that did not permit approval procedures;
- South Africa was not eligible to participate in any phase of the US Security Assistance Program involving material or training, grants, credits, or sales;
- Commercial sales of military-related items to South African civilian buyers were subject to close scrutiny by the Departments of State and Commerce. This included spare parts that may have been provided for under pre-1977 sales contracts. The objective was to preclude the possibility that any sale by a US firm would lead indirectly to an increase in South Africa's military or paramilitary capabilities;
- South African citizens, military or civilian, were not to be allowed to enroll in any US military school or course, either as resident or correspondence students; neither were they to be allowed to enroll in any resident or correspondence course supported by Department of Defense elements like the Defense Civil Preparedness Agency;
- Invitations from representatives of the South African Government in the US to attend ceremonies, dinners, receptions, cocktail parties or similar official or semi-official functions were not to be accepted for senior military personnel, without clearance from the Secretary of Defense or his subordinate;
- Official visits to South Africa were to be strictly controlled and would be cleared only through the Secretary of Defense or his subordinate. Non-essential



- visits would not be approved. Visits by general or flag officers would not be approved if their missions could be performed by personnel of lower rank;
- Letters of congratulations and similar correspondence, such as may be sent routinely to senior counterparts in a friendly country on national holidays, were not to be sent to South African officials without clearance from the Secretary of Defense or his subordinate;
  - Financial, logistical or other support to a US military serviceman were not to be provided for any international sporting event without prior clearance from the Secretary of Defense or his subordinate, if South African citizens were expected to take part;
  - Research and other contracts between Department of Defense elements and civilian firms or institutions were prohibited from cooperation or contact with the South African Government, without prior clearance from the Secretary of Defense or his subordinate;
  - Since the memorandum could cover not all contingencies, US action officers were encouraged to contact the Department of Defense for specific guidance.<sup>23</sup>

In order to enforce the embargo practically, a so-called Human Rights Desk was instituted within the Department of State. In collaboration with the Department of Commerce, all declarations of exports to South Africa were thoroughly checked and where any suspicion existed as to the end use of the products, the export licenses were rejected or withdrawn. In some cases, the local US Embassy was called in to ensure that goods that were earmarked for civilian use in South Africa did not eventually land up in the hands of the South African military or police. Violations of the regulations had serious legal implications for the offenders, as will be discussed in more detail later in this chapter.<sup>24</sup>

In September 1978, the US Department of Commerce, which was responsible for the enforcement of the arms embargo, issued a notice in the US Federal Register through which they aimed to clarify what South African entities they considered to be police and military. The notice was the result of a number of inquiries from companies as to whom

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23. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00821: *Memorandum*, Deputy Secretary of Defense, 1978-03-18.

24. Armscor Archives (Pretoria), Sanctions and arms embargoes, Box 5, File 7, Presentations: *Presentation* to the Scientific Committee of the State Defense Council on military sanctions and the arms embargo, 7 May 1979.

the arms embargo regulations specifically included, as well as some requests for exemptions from pharmaceutical suppliers and tire manufacturers like Goodyear and General Tire. The Department of Commerce accordingly defined the prohibited South African entities as including the SADF with all its various extensions, the South African Air Force, the South African Police, Armscor, the Prisons Department, members of the Bureau of State Security (BOSS), the South African Railways Police Force and provincial law enforcement departments such as traffic and highway patrol authorities. Other law enforcement entities and officials that did not have functions similar to those performed by the police in the US, such as the South African Departments of Justice and Customs, health inspectors and licensing authorities, were not considered police entities. The South African National Institute for Defense Research was also excluded.<sup>25</sup>

Many US corporations were unhappy with the strict regulations instituted by the Carter Administration, considering it more stringent than necessary. By December 1978 they were lobbying openly against the regulations in the hope to expand the definition of permitted civilian-purpose sales. Specific reference was made to the February 1978 ban against any product or technology that could be used by the South African military or police. The Department of Commerce justified the regulation by pointing out the integrated nature of the South African society, which made it hard to guarantee that South African affiliates would not directly or indirectly resell the products they purchased to the South African military or police. General Tire and Rubber Company was one of the companies that complained bitterly to this reasoning. It claimed that because of the ban, it had already lost \$1 million in after-tax profits in the first year of the arms embargo. It also pointed out that it possessed less than 25% interest in its South African affiliate, and that less than 1% of total South African sales went to the military or police. Because its South African affiliate was no longer able to receive products from General Tire, that affiliate signed a six to ten year contract with General Tire's West German competition. Goodyear International Corporation was another US company who found itself in the same boat as General Tire.<sup>26</sup>

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25. Armscor Archives (Pretoria), Departmental Committees, Commissions and Control Boards, State Security Board, Coordinating Economic Committee, File 1/15/2/3/2, Volume 9: **Letter**, Department of Commerce and Consumer Affairs to Chairman: Armscor, 22 January 1979; D. Myers III, *et. al.*, **U.S. Business in South Africa: The economic, political and moral issues**, p. 131.
26. F.J. Parker, **South Africa: Lost Opportunities**, p. 143.

On 8 January 1980, the US Department of Commerce published an interim final rule extending the export restrictions to South Africa of US products intended for military and police use. It stated that in conformity with the United Nations Security Council Resolutions of 1963 and 1977, relating to exports of arms and munitions to South Africa, and consistent with US foreign policy toward South Africa and South West Africa (Namibia), the following special policies for commodities and technical data were established:

- Applications for validated licenses for the export of medicines, medical supplies, and medical equipment not primarily destined for military and police entities or for their use, would be considered favorably on a case-by-case basis. The decision to permit the shipment of medical supplies was taken when it became clear that such supplies were not only denied to the South African military and police, but also to civilians, because it was impossible to determine that in all cases no part of any shipment of medical supplies was destined for the South African military or police. However, the Carter Administration stated it was not their intent to deny such shipments, nor was it the intent of the US regulations expanding on Security Council Resolution 418 (1977). Therefore, it was decided that it was preferable to provide medical supplies to South Africa rather than deny it to South Africans who might need them. As such, it would not constitute a violation of Resolution 418 (1977);
- A validated license was required for the export to all consignees of aircraft and helicopters. Applications for such exports for which adequate written assurances have been obtained against military, paramilitary or police use, would generally be considered favorably;
- A validated license was required for the export of computers to government consignees. Applications for the export of computers that would not be used to support the South African policy of apartheid would generally be considered favorably on a case-by-case basis.<sup>27</sup>

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27. Armscor Archives (Pretoria): Division Main Management, Foreign Relations and Organization, Embargo, File 1/17/1, Volume 4: **Note**, Secretary for Commerce and Consumer Affairs to Chairman: Armscor, 3 April 1980; Division Main Management, Foreign Relations and Organization, Embargo, File 1/17/1, Volume 4: **Extract** from the **Federal Register** 45(5), 8 January 1980; Sanctions and arms embargoes, Box 1, File 2, Presentations, Parliamentary Questions, Statements: **Note verbale** from the Representative of the United States of America to the United Nations, 14 April 1980.

It should be noted that last two regulations of the above interim final rule addressed many aspects of a bill introduced on 2 February 1978 by House of Representatives member Cardiss Collins and two others, as well as a resolution passed by the United Nations General Assembly on the arms embargo against South Africa on 12 December 1979. The House of Representatives bill was aimed at amending the Export Administration Act to prohibit the licensing for export to South Africa of certain highly controversial items like civilian aircraft, helicopters, spare parts and accessories for both, flight equipment and non-military arms.<sup>28</sup> The background to the introduction of this bill will be discussed in more detail later in this Chapter, when the loopholes in the US arms embargo regulations are discussed. The General Assembly resolution in turn stated that the full implementation and reinforcement of the arms embargo against South Africa was an essential first step in international action against apartheid. The General Assembly accordingly requested the Security Council to take mandatory measures, to ensure that:

- All states revoke all licenses granted to South Africa for the manufacture of arms and equipment;
- Corporations under the jurisdiction of United Nations members be prohibited from any involvement in the manufacture in South Africa of arms and related equipment for the use of the military and police forces, and in the transfer of technology and capital for that purpose;
- All states terminate the exchange of military, air, naval and scientific attachés with the South African Government;
- The supply of aircraft, aircraft engines, aircraft parts, electronic and telecommunications equipment to South Africa be prohibited;
- All states take effective legislative and other measures to prevent the recruitment, training and transit of mercenaries for assistance to the South African Government, and to punish such mercenaries.<sup>29</sup>

It should be noted that some of the measures requested by the General Assembly included some that the US had already introduced during 1978. It can therefore be

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28. Armscor Archives (Pretoria), Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: **Proposed Bill**, US House of Representatives, 2 March 1978.

29. Armscor Archives (Pretoria), Division Main Management, Foreign Relations and Organization, Embargo by Foreign Nations, File 1/17/1, Volume 3: **Resolution**, United Nations General Assembly, Thirty-fourth session, Agenda item 28(D): Arms embargo against South Africa, 12 December 1979.

concluded that the US in many respects had set the example in its implementation of the arms embargo against South Africa.

### **3.4 THE INFLUENCE OF THE ARMS EMBARGO REGULATIONS ON US-SOUTH AFRICAN RELATIONS**

The stiff arms embargo regulations might have signaled a hard lined policy towards South Africa by the Carter Administration, but in practice, it was not the case. In March 1978, the South African military forces pounded SWAPO bases in Angola, thereby instilling more strain in US-South African relations. The raid was followed by the inevitable protest from the US, which the South African Defense Minister, P.W. Botha rejected by saying that South Africa would not be intimidated and would strike again if its security was threatened, especially now that it had to face threats alone because of the arms embargo. Nonetheless, the incident worried some members of the Carter Administration, as could be gathered from a memorandum by the US National Security Council in April 1978 on the future of US-South African relations. It stated that when the Carter Administration announced the arms embargo against South Africa, it reiterated its public commitment to work for peaceful change in South Africa. This commitment was coupled with diplomatic pressures like the arms embargo, the withdrawal of the US naval attaché to South Africa, and the announcement of stiff export and other regulations on the South African military and police. According to the memorandum, by April 1978 these diplomatic pressures had not brought any improvement. Instead, the domestic racial situation in South Africa continued to deteriorate rapidly and South Africa was becoming even more aggressive towards its neighbors. The US mission at the United Nations especially was worried that a failure by the Carter Administration to keep to its public promise would severely undermine the credibility of many key elements of the US foreign policy, of which human rights was deemed the most important. In the light thereof, new policy actions against South Africa became necessary.<sup>30</sup>

Despite the concern of the National Security Council, the Carter Administration through Vance tried several other diplomatic moves in an effort to try and dislodge the South African military presence in South West Africa (Namibia). One of these was quite

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30. Carter Presidential Library and Archives (Atlanta), Policy Review Committee, Meetings, PRC 41: *Memorandum* on US policy towards South Africa, 13 April 1978.

alarming to the South African Government, namely an offer by Carter to the Soviet Union to join the US in helping to solve the Rhodesian and South West Africa (Namibia) conflicts. This statement was perceived as another major shift in US policy. It startled the South African Government, as sharing an anti-Soviet bias with the US had always been one of the main reasons why ties between the US and South Africa had not been entirely severed. This was especially worrying because in April 1978, Cuba and the Soviet Union pledged further assistance and support to Black Nationalist guerilla movements that fought in Southern Africa, including SWAPO and the ANC. However, shortly afterwards South Africa was even more alienated by moderating efforts by Vance to try and explain that the Carter Administration's policy should not be misunderstood as a wish to see the white South Africans driven from the land of their forefathers. The South African Government responded hotly to what they viewed a patronizing statement by Vance, saying that there was no power on earth that could drive white South Africans from the home of their forefathers.<sup>31</sup>

In October 1978, the Carter Administration resorted to an effort to involve South Africa in a dialogue before relations between the countries completely broke down. Secretary of State Vance undertook a trip to South Africa to introduce the concept of linkage - precisely that to which Kissinger had resorted in 1976 and which the Democratic Party at the time, with Carter as their presidential candidate, fiercely criticized. The concept implied a let-up of pressure on South Africa to undertake internal change in exchange for the South African Government's help in gaining independence for Rhodesia and South West Africa (Namibia). However, the let-up of pressure seemingly did not involve any relaxation of the arms export regulations. Also, some damage in US-South Africa relations had already occurred through the institution of the arms embargo, as could be clearly gathered from a weekly report by Brzezinski to Carter on 2 December 1978. Brzezinski stated that the US difficulties with South Africa was mounting, and the basic reason for that was that the US' middle-of-the-road solutions with regard to South Africa were collapsing as the situation in that country and in Southern Africa became more polarized. In fact, neither the white nor the black people in the region took the US very seriously, as there was no bite to the US' proposals and actions. Brzezinski did not

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31. R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, pp. 37-38; Anonymous, Cuba and Soviet Pledge aid to African guerillas, *The New York Times*, 25 April 1978, p. 9; J.F. Leonard, Statement on Apartheid in the General Assembly on November 22, 1978, *Department of State Bulletin*, February 1979, p. 61.

admit it, but the truth is the Carter Administration had not fully reckoned with the defiance of the South African Government and its support by white South Africans. Where the intent of the arms embargo might have been to topple the South African Government, it instead aided in gaining more support for that Government. The South African Government insisted that its crackdown on the leaders of black protest movements in October 1977 was necessary to prevent militant blacks from fomenting a revolution. This explanation was widely accepted by the majority of South African whites. In addition, the pressure from the US was presented as demands that the birthright of white people in South Africa be surrendered to the black people of South Africa, which rallied the support of white South Africans for the South African Government even more.<sup>32</sup> Lastly, in September 1978 Vorster was named President of South Africa and was replaced as Prime Minister by the Minister of Defense, P.W. Botha, who was severely defiant of the arms embargo and would pioneer a formidable military force and industry in South Africa.<sup>33</sup> For the remainder of the Carter Administration, relations between the US and South Africa remained stiff. Furthermore, the Carter Administration was hampered by several factors that would influence the implementation of the arms embargo, as will be discussed in the next section.

### 3.5 FACTORS INFLUENCING THE IMPLEMENTATION OF THE ARMS EMBARGO

The new revisions as detailed earlier represented the first time that the US had chosen to apply restrictions on all goods that might be used by specific institutions in a foreign country, regardless of the nature of the goods and their possible uses. This went beyond the requirements of the mandatory United Nations arms embargo. In the eyes of the Carter Administration, strict enforcement of the mandatory arms embargo was critical for two reasons: first, to demonstrate active opposition to the apartheid system of the South African Government; and second to prevent the delivery of all arms and

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32. This was certainly true at the time, but in the long run the South African Government's reaction to the arms embargo led to measures that helped rally even stronger sanctions, which helped end apartheid. It's a very interesting dynamic. A similar thing took place in the southern US in the later 1950s and early 1960s, and is referred to as the "white backlash" effect after *Brown v. Beard*, a white reaction that ultimately helped the civil rights cause in the US. (Comment by A.J. DeRoche).
33. R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 39; J.F. Burns, U.S. testing new policy on South Africans, *The New York Times*, 3 December 1978, p. 16; J.F. Burns, Vorster says Whites can withstand U.N., *The New York Times*, 9 November 1977, p. 1; J.F. Burns, In the face of international isolation and pressure, South Africans are rallying behind Government, *The New York Times*, 13 November 1977, p. 3; Anonymous, Heavy-handed South Africa ... and the U.N. embargo (Editorial), *Chicago Tribune*, 14 November 1977, p. 2; Anonymous, 'United Nations sanctions can't kill South Africa', *The Citizen*, 14 November 1977, p. 11.



systems that the South African Government needed to maintain its position in the face of rising domestic opposition. Nonetheless, although the Carter Administration might have had the best intentions to implement the arms embargo as strictly as possible, several problems would play a role in making the implementation of the arms embargo in fact very difficult. For example, according to an official of the Department of Commerce, enforcement of the regulations was somewhat subjective and required a good faith effort on the part of US companies. Also, the defiance of the South African Government played a big role in disimplementing the arms embargo. When Vorster said after the institution of the arms embargo that those who believed that the South African Government could be brought to its knees with the mandatory arms embargo would have another guess coming, he meant what he said. He also said that his Government had known that the mandatory arms embargo would some day become a reality, and therefore timely provision was made for it. The arms embargo would therefore have little impact on South Africa, as it was self-sufficient in the type of arms that was needed to defend the country against communist aggression.<sup>34</sup>

The basis for the South African Government's defiance of the arms embargo was possibly based on its definition of armaments in the Armaments Development and Production Act No. 57 of 1968. According to this definition, armaments included "*any vessels, vehicles, aircraft, bombs, ammunition or weapons, or any substance, material, raw material, components, equipment systems, articles or technique of **whatever nature** (emphasis added) capable of being used in the development, manufacture of armaments or for defense purposes or for other purposes determined by the Minister with the concurrence of the Minister of Economic Affairs ...*".<sup>35</sup> It is interesting to note that it took various US Administrations from Carter onwards a long time to realize that this actually included grey area equipment, amongst other things. It was perhaps mere

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34. D. Myers III et. al., *U.S. Business in South Africa: The economic, political and moral issues*, p. 131; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 5, File 7, Presentations: **Presentation** to the Scientific Committee of the State Defense Council on military sanctions and the arms embargo, 7 May 1979; M.T. Klare & E. Prokosch, Getting arms to South Africa, *The Nation*, 8-15 July 1978, p. 50; J.F. Burns, Vorster says Whites can withstand U.N., *The New York Times*, 9 November 1977, p. 1; J.F. Burns, In the face of international isolation and pressure, South Africans are rallying behind Government, *The New York Times*, 13 November 1977, p. 3; Editor, Heavy-handed South Africa ... and the U.N. embargo, *Chicago Tribune*, 14 November 1977, p. 2; Anonymous, 'United Nations sanctions can't kill South Africa', *The Citizen*, 14 November 1977, p. 11.

35. As quoted in 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.

ignorance on the part of these Administrations, but on the other hand it also could have been deliberate ignorance. It is hoped that a discussion of the implementation of the arms embargo from the Carter through the Reagan, Bush and Clinton Administrations will indicate which type of ignorance was the order of the day during each Administration.

Two weeks before the scheduled South African general elections in November 1977, Defense Minister P.W. Botha analyzed the South African arms situation in a television interview. He confirmed Vorster's statement that South Africa was self-sufficient in many types of arms, saying that the country already manufactured 75% of its armament needs and that it was technologically able to increase this percentage. For those armaments that South Africa was not able to manufacture itself, he was confident that the country would be able to obtain it from somewhere, despite the arms embargo. With this statement, Botha made it clear that South Africa would leave no stone unturned to obtain the armaments it needed through whatever way deemed necessary. This positive stance was maintained even after the US published the new restrictions on exports to the South African military and police in February 1978. The South African Defense and Naval Attaché in Washington, D.C. for example interpreted the regulations as meaning that data generally available to the public was not embargoed. Therefore, the Defense and Naval Office at the South African Embassy in the US would still be entitled to obtain technical data such as cataloguing and codification handbooks and other open government sources that had been the main sources of supply of such data. The data would furthermore still be obtainable at exhibitions, symposiums and through contact with private firms and individuals, as in the past.<sup>36</sup>

Despite the claims of increasing self-sufficiency, however, the South African Government was worried about the effect of the arms embargo. This could be gathered from two documents, one an internal SADF telegram and the other a cable send from the US Embassy in South Africa to the Department of State, which was later released to the American Friends Service Committee. Both detailed a secret South African study

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36. Anonymous, Ons antwoord, *Beeld*, 15 November 1977, p. 10; Armscor Archives (Pretoria), Departmental Committees, Commissions and Statutory Bodies, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: *Letter* from Defense and Naval Attaché, Washington, D.C. to General Manager, Armscor, 22 February 1978.

of the impact of US sanctions. It was stated that the more the pressure from the US against South Africa in the form of sanctions would increase, the more South Africa might find that various organizations and institutions within the defense family would try in various ways to circumvent it. The South African Government therefore had set up an Economic Warfare Commission to deal with the threat posed by export restrictions. The Commission found that South Africa was highly vulnerable to restrictions on the supply of spares for high technology equipment. The South African Government had built up a reserve of stocks that would act as a cushion on the short term, just like Botha had said earlier in the television interview discussed above, but there was apparently no possibility that all the replacement parts for important goods could be locally produced. Accordingly, South Africa had to find a way to plan and coordinate total efforts to address each problem area individually and combined. The role of large corporations in thwarting sanctions was stressed, and it was alleged that multinationals, including US subsidiaries, were determined to undercut any sanctions action. Indeed, it was alleged that multinational companies had already made plans to camouflage their operations through subterfuges arranged with affiliates in other countries.<sup>37</sup>

The above statement was a very significant one at the time, because South Africa did make use of various multinational companies in their effort to circumvent the arms embargo, as would hopefully be gathered from a later discussion in this chapter. The full spectrum of methods were used: loopholes in the US regulations, smuggling, the setting up of front companies in South Africa and other countries, false customs declarations of both goods and destinations, false end-use certificates, rerouting of ships, transport of goods as personal belongings or diplomatic mail, and a formal cooperation agreement with Israel. Interestingly, illegal deals with South Africa were seldom discovered by customs authorities. Revelations generally came from company insiders, dockworkers or journalists.<sup>38</sup> An attempt will be made to discuss as many examples of circumventions of the embargo as possible in the following sections; however, it is possible that there are still many examples that remain classified.

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37. Armscor Archives (Pretoria), Commercial Folder, U.S.A. sanctions, File 22/16/1/4: *Telegram*: HSAW Kaap to HSAW3 and HSAW4, 13 March 1978; NARMIC/AFSC, *Automating Apartheid - U.S. computer exports to South Africa and the arms embargo*, pp. 8-9.

38. M. Brzoska, Arming South Africa in the shadow of the UN arms embargo, *Defense Analysis* 7(1), March 1991, p. 28.

It should nonetheless be noted that the incidents that will be discussed in the following sections were isolated incidents. Proof that the Carter Administration had implemented effective measures to enforce the 1977 mandatory arms embargo could be gathered from a presentation by a member of Armscor to the Scientific Committee of the South African State Defense Council in May 1979. A description of the various US regulations pertaining to the arms embargo was provided, followed by an analysis of how it was applied in practice. The conclusion was made that the embargo was strictly applied by the Departments of State and Commerce, as well as the Human Rights Desk in the Department of State and where necessary, the local US Embassy. Apparently, suppliers and exporters in the US in general kept to the stipulations of the arms embargo. Even suppliers of US goods in other countries were so intimidated by the strict regulations of the US and the threatening possibilities of losing their sources and thus also good profits that they did not see their way open to continue to supply goods to Armscor or other South African military or police authorities.<sup>39</sup>

### **3.5.1 LOOPHOLES IN THE US ARMS EMBARGO REGULATIONS**

#### **3.5.1.1 Grey area equipment**

Although the new regulations of the Carter Administration were specifically aimed at closing up loopholes concerning grey area sales to the South African military and police, it did not prohibit the sale of civilian type aircraft, which was widely regarded a grey area equipment, to non-governmental South African buyers. Anti-apartheid activists and arms embargo observers regarded this fact as a large loophole in the US Export Control Regulations, as there was no guarantee that the South African Government would not confiscate the items. The issue was dramatically highlighted in mid-December 1977 when the Department of State announced the approval of the sale of six Cessna light aircraft to South Africa, with another 44 following in 1978. The end-use of the aircraft was listed in the US as crop-dusting. But, although Cessna aircraft had no capacity for carrying troops, it could be used for either military or civilian purposes. They were civilian in nature, harmless in appearance and seemed to pose no threat, but were nonetheless deployed by the air forces of several countries for counter-insurgency

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39. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 5, File 7, Presentations: Presentation to the Scientific Committee of the State Defense Council on military sanctions and the arms embargo, 7 May 1979.

objectives. In the case of South Africa, Cessna's and similar light aircraft were put to military use in two ways: first, for a variety of support functions, including liaison, reconnaissance and light transport duties, as well as directing ground fire onto specific targets; and second, privately-owned civilian aircraft made up the South African Air Commando units in which volunteers flew their own aircraft. These Air Commandos made it possible for the South African military to use civilian aircraft while maintaining the initial legal basis for the sales thereof.<sup>40</sup>

The approval of the sale of the aircraft elicited strong reaction, mainly because Carter's press conference on 28 October 1977, as discussed in the previous chapter, elicited a general expectation in the US that the export of civilian aircraft to South Africa would be prohibited. Carter gave the impression during the press conference that he intended a directive banning the sale of grey area items that could easily be converted to military or police use, to South Africa. It was therefore widely anticipated that this would also mean that civilian aircraft, electronic equipment, helicopters and civilian spare parts and engines for flying craft would no longer be granted export licenses to South Africa. Accordingly, a Congressional telegram protesting the sale of the six aircraft was sent to the Department of State. Protest also came from the American Committee on Africa (ACOA), who demanded the immediate cancellation of the sale on the grounds of the announcement by Carter in November 1977 that the US was tightening its arms embargo to include grey areas. ACOA objected that the aircraft could be used against Black Nationalist forces opposing the South African white minority Government. In addition, there was always the possibility that the aircraft might indeed end up in the hands of the South African military forces, as the South African Defense Act authorized that any private assets may be seized in the event of an emergency, and the National

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40. Armscor Archives (Pretoria), Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: *Conference Paper*, U.S. arms embargo against South Africa, April 1978, pp. 33-34; Anonymous, Holes in the arms embargo, *Southern Africa*, January-February 1978, pp. 9-10; M. Klare & E. Prokosch, Getting arms to South Africa, *The Nation*, 8-15 July 1978, p. 52; M. Klare & E. Prokosch, Evading the embargo: How the U.S. arms South Africa and Rhodesia, *Issue* 9(1/2), Spring/Summer 1979, p. 43.

Supplies Procurement Act of 1970 empowered the South African Government to compel companies to provide any weapons or equipment needed.<sup>41</sup>

On 29 December 1977, the Department of State responded to the protests by saying that these types of exports have been occurring for some time, and that the aircraft were to be used for non-military purposes. According to them, they had no evidence of misuse of such aircraft by the South African Government. They assured those who were worried about the sale that it was the Carter Administration's uncompromising position that no export of civilian goods would go directly to the South African military or police. If the aircraft were destined for direct or indirect use by the South African military and police, the sale would not have been approved. Nonetheless, they had taken steps to determine through regular end-use monitoring that the aircraft were not used for military purposes. Finally, as a sign of their determination to enforce the mandatory arms embargo, they emphasized that within hours after the passage of the embargo the US stopped the shipment of spare parts for C-130 aircraft to South Africa.<sup>42</sup>

After the response by the Department of State, several inconclusive letter exchanges followed between the Department and members of the House of Representatives' Ad Hoc Monitoring Group on South Africa. The latter insisted that the Cessna aircraft were of military significance and that the exports violated the express policy of the US to eliminate grey area sales, and that the exports therefore might have violated the arms embargo. The Department of State in turn stood by their opinion that the exports were for civilian use. Finally, on 2 February 1978, House of Representatives member Cardiss Collins and two others introduced a bill that, if accepted, would amend the Export Administration Act to prohibit the licensing for export to South Africa of certain highly

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41. Anonymous, Sale of U.S. civilian aircraft to South Africa is supported, *The Washington Post*, 15 December 1977, p. A43; Armscor Archives (Pretoria), Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: *Conference Paper*, U.S. arms embargo against South Africa, April 1978, pp. 32-33; P. Irish, Embargo, *ACOA News*, 19 December 1977, p. 1; B. Manning, US- S. Africa arms ban – Carter flies through the gap, *New African*, February 1978; Western Massachusetts Association of Concerned African Scholars, *U.S. military involvement in Southern Africa*, p. 236; Anonymous, Protes aangeteken oor VSA-vliegtuie aan SA, *Die Volksblad*, 20 December 1977, p. 7; Anonymous, President is urged to stop plane deal with South Africans, *The New York Times*, 19 December 1977, p. 9.

42. Anonymous, Sale of U.S. civilian aircraft to South Africa is supported, *The Washington Post*, 15 December 1977, p. A43; B. Manning, US-S. Africa arms ban – Carter flies through the gap, *New African*, February 1978; Armscor Archives (Pretoria), Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: *Conference Paper*, U.S. arms embargo against South Africa, April 1978, pp. 36-37.

controversial items like civilian aircraft, helicopters, spare parts and accessories for both, flight equipment and non-military arms. The bill would also establish a monitoring process that would require the Department of Commerce to notify the US Congress at least thirty days prior to the granting of a validated license for an item to be exported to South Africa. Furthermore, the bill would allow the Congress, in a one-House veto, to disapprove of the license, by passing a resolution within thirty days after the granting of the license. The three members of Congress asserted that the approval of the licenses for the export of the Cessna's gave each member of Congress an opportunity to judge the seriousness with which the US Government would pursue its unilateral and multi-lateral obligations to embargo the sale of arms and equipment to South Africa. It was their hope that through legislative action like the proposed bill, it would be possible to conduct an effective arms embargo against South Africa and through that reduce the extent to which the US continued to contribute to the perpetuation of apartheid.<sup>43</sup>

The proposed bill did not pass. In fact, the Carter Administration ignored it. On 23 March 1978, the General Aircraft Manufacturer's Association announced that the export to South Africa of up to 80 light aircraft, including 44 Cessna's, was approved. Interestingly, neither the Departments of State nor Commerce made the announcement, although they were not required by law to do so. Apparently, the export decision was already made on 9 March 1978, so in all probability the aircraft were already in transit to South Africa by the time the announcement was made. Nonetheless, the matter as well as the previous December 1977 sales was brought to the attention of the United Nations Arms Embargo Committee. In September 1978, the US Mission at the United Nations responded to a press report from the Chairman of the Arms Embargo Committee, in which the sales were noted. The US rejected the implications that the sale of the civilian light aircraft was somehow a violation of the terms of the mandatory arms embargo. It reiterated that the sale was carefully reviewed by the Department of State to determine whether, and under what conditions, they would continue to recommend to the Department of Commerce the approval of applications of such aircraft to South Africa. In reaching a decision on the issue, the Department of State considered on the one hand the commitment to prohibit the export of all military goods

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43. Armscor Archives (Pretoria): Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: *Conference Paper*, U.S. arms embargo against South Africa, April 1978, pp. 37-38; Division Main Management, Foreign Relations and Organization, File 1/17/6/1, Volume 4: *Proposed Bill*: U.S. House of Representatives, 2 March 1978; M.T. Klare & E. Prokosch, Getting arms to South Africa, *The Nation*, 8-15 July 1978, p. 52.



to South Africa, including any items whatsoever to the South African military and police, and on the other hand the interests of the US manufacturers of light aircraft. It was decided to continue, for the time being, with the exports of light aircraft provided the end-user was acceptable, but simultaneously to adopt more rigorous conditions allowing the US to verify in advance that the intending purchaser was not a member of the Air Commando's. Additional conditions for export were also adopted, which enabled the US to monitor subsequent sales and to determine that the aircraft had not been sold to the South African police, military or paramilitary units like the Air Commando's.<sup>44</sup>

Concerning the protests that Cessna aircraft supplied by the US were used for military purposes in South Africa, the US pointed out that 22 Cessna aircraft were enlisted in the South African Air Force. However, these were old aircraft purchased from the US before the 1963 arms embargo was instituted. The South African Air Force sought to replace these aircraft in 1977 with new US aircraft, but the export license was denied. In conclusion, the US felt that it should continue to allow normal commercial trade, as in the case of light aircraft, whenever such sales were not directly or indirectly for use by the South African military and police. Indeed, it was felt that if the US were to go any further than the existing regulations, a set of unenforceable regulations would be created, or much of the normal US commercial trade with South Africa would seize.<sup>45</sup>

Another example of US civilian-type aircraft utilized by the South African Government for military purposes is the Boeing 747 Jumbo passenger jet, which can carry an excess of 400 passengers. South African Airways have over the years purchased a whole fleet of these aircraft from the US. In October 1978, the Angolan representative at the United Nations complained that the SADF have used these aircraft on a large scale to ferry South Africa soldiers to the military bases' in South West Africa (Namibia), from

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44. M.T. Klare & E. Prokosch, Getting arms to South Africa, *The Nation*, 8-15 July 1978, p. 52; M. Klare & E. Prokosch, Evading the embargo: How the U.S. arms South Africa and Rhodesia, *Issue* 9(1/2), Spring/Summer 1979, p. 45; Armscor Archives (Pretoria), Departmental Committees, Commissions and Statutory Bodies, State Security, Coordinating Economic Committee, File 1/15/2/3/2, Volume 9: **Note verbale** from Permanent Mission of the United States of America to the United Nations Secretariat, 12 September 1978.

45. Armscor Archives (Pretoria), Departmental Committees, Commissions and Statutory Bodies, State Security, Coordinating Economic Committee, File 1/15/2/3/2, Volume 9: **Note verbale** from Permanent Mission of the United States of America to the United Nations Secretariat, 12 September 1978.

where numerous military campaigns were launched into Angola.<sup>46</sup> The US ignored the complaint.

Concerning spare parts for the maintenance and repair of aircraft, after the institution of the mandatory arms embargo the US continued to export parts for the fleet of L-100 Commercial Hercules aircraft held by Safair Aviation, which was partially owned by the South African Government. However, export of spare parts for C-130 Hercules military transport aircraft were prohibited. This elicited widespread criticism, as the commercial L-100 aircraft was an almost exact copy of the C-130 aircraft flown by the US Air Force. The US Government agreed that some of the L-100 spare parts were compatible with C-130, but maintained that Safair kept a careful log of the spare parts used and that the US frequently reviewed this log. As further justification for the continued exports, the US Government said that it maintained a considerable fleet of C-130 aircraft and was therefore well qualified to determine the rate at which parts wore out and the provision of spares was necessary. In the light of this, the US did not export a sufficient number of spare parts to enable Safair to maintain its fleet of L-100 aircraft and to also transfer parts to the military for the maintenance of its C-130 aircraft. Lastly, the US with each export required the purchaser to certify that the aircraft would not be used for police, military or para-military purposes.<sup>47</sup>

The above assurances by the US Government did not satisfy some anti-apartheid activists. In March 1980, for example, Abdul Minty, the Director of the World Campaign against Military and Nuclear Collaboration with South Africa testified before the Security Council Arms Embargo Committee that it was a well-established fact that L-100 aircraft had been used by South Africa in its campaigns into Angola and the other front-line states. This fact was proven by the International Institute for Strategic Studies in London, who had found that the Safair L-100 aircraft were indeed listed in the SADF's military inventory. The aircraft had been supplied to Safair Aviation during the Nixon

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46. Anonymous, 'Verbod help dan niks', *Die Volksblad*, 20 October 1978, p. 7; F.J. Parker, *South Africa: Lost Opportunities*, p. 141.

47. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00942: **Telegram**: Secretary of State to United States Mission, United Nations, 22 May 1979; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 1, File 2, Presentations, Parliamentary questions and Statements: **Note verbale**, Representative of the United States of America to the Chairman of the Security Council Committee established by Resolution 421(1977), 14 September 1977; **Statement** to the Security Council Committee established by Resolution 421(1977) by Abdul Samad Minty, 9 April 1984; Anonymous, Allegations of violations of the arms embargo against South Africa and of nuclear collaboration with South Africa: Replies of Governments, *Objective Justice* 11(3-4), Autumn-Winter 1979, p. 15.

Administration, with a second batch in 1976 during the Ford Administration. South Africa was therefore in clear breach of the specific certification required by the US. Furthermore, the C-130 aircraft used by the South African Government were still able to fly. In the light of this, Minty asked that if it was true that the C-130 aircraft did not have any spare parts supplied by the US for many years, how was it possible that they were still being able to fly? The US Government could not give a clear answer to this question, which implied a serious loophole in the US arms embargo regulations, according to anti-apartheid critics.<sup>48</sup>

### 3.5.1.2 Electronic equipment & computers

The export of actual weapons might have been the most dramatic violation of the arms embargo in the eyes of many, but several anti-apartheid activists also regarded the export of technology and know-how, including computers, electronics and communications gear, and information on these items, as being an equally serious and alarming problem in the implementation of the arms embargo. It may be true that during the Carter Administration, exports in this category were generally non-lethal, but nonetheless, many of these items had direct military application. Given the utter dependence of any modern high-technology enterprise and of weapons itself on computer techniques, US computer exports to South Africa had major implications for the South African arms industry. In the light of this, The American Friends Service Committee (AFSC) argued that the South African Government would leave no stone unturned to use computers and electronics to design its own weapons. Under the new export regulations announced by the Carter Administration in 1978, US firms were prohibited to sell computers or other support equipment to the South African police and military, or to any agency directly involved in administering the policy of apartheid. Depending on the size of the computer and the purchaser involved, various restrictions were placed on the computer export license to ensure that it was not being used inconsistent with US policy. However, several examples could be found where US corporations contradicted the arms embargo by exporting various types of electronic

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48. S.S. Gay, *United States security policy and sanctions: The U.S. arms embargo against South Africa*, p. 7; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Summary** of the 25<sup>th</sup> Meeting of the Security Council Committee established by Resolution 421(1977), 15 December 1981.

equipment and computers to the South African Government. AFSC regarded this as a serious loophole in the arms embargo.<sup>49</sup>

IBM was a company known for renting a Model 370 computer system to the South African Department of Internal Affairs. The system was used for South Africa's national identity system, and stored files on several million White, Colored and Asian South Africans. Information on Black South Africans was stored on another IBM computer. The system was therefore used to facilitate the South African Government's scheme of racial classification, on which the apartheid policy was based. IBM owned the equipment and leased it to the South African Government, and should therefore have withdrawn the system after the 1978 regulations came into effect, according to AFSC. The company however declined to do so. In addition to IBM, other US-origin hardware was also used by some branches of the South African Government to run the segregated educational system, manage the South African tax system, operate the segregated transport network, compile voters' rolls for whites only, and pay government employees. Local government bodies relied on US-origin computers to enforce the apartheid laws. The Boksburg local government, for example, had an entire computerized municipal administration system based on a Univac machine supplied by Sperry, while NCR had played a strong role in computerizing local governments in Pietersburg, Stellenbosch, Rustenburg and other cities. Mohawk assisted in computerizing the cities of Johannesburg and Germiston, and IBM computers were used in Pinetown, Randfontein, Richards Bay and the Pretoria Peri-Urban Areas.<sup>50</sup>

The 1978 regulations were more applicable to the South African Police, which, in spite of the arms embargo, enjoyed continued access to US technology and know-how. A few examples could be found. In 1978, after the announcement of the new regulations, Control Data Corporation exported computer disk drives to the South African Police as part of nine high-speed computers. Control Data Corporation had a subsidiary in the

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49. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: *Testimony* by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, pp. 4-5; M.T. Klare, South Africa's U.S. weapons connections, *The Nation* 229, 4 July 1979 – 8 August 1979, p. 77; Anonymous, Allegations of violations of the arms embargo against South Africa and of nuclear collaboration with South Africa: Replies of Governments, *Objective Justice* 11(3-4), Autumn – Winter 1979, p. 15; S. Landgren, *Embargo disimplemented: South Africa's military industry*, p. 206.

50. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: *Testimony* by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, pp. 5-6.

United Kingdom, who sold the subunits to a business partner, International Computers Limited, who in turn built the drives into the larger computer systems destined for the South African Police. The computer systems were reportedly destined to be used for the enforcement of the South African pass laws. Control Data Corporation insisted that they had fully complied to US law in its dealings with ICL, while ICL acknowledged that they used many components from US producers in its computers, and that it was a major supplier of computer equipment to the South African military and police. This was in direct violation of the US 1978 arms embargo regulations, which specifically prohibited resale to or delivery of commodities or technical data to or for use by the police or military entities in South Africa or South West Africa (Namibia).<sup>51</sup>

In 1979, a US company called RCA began exporting a TAC radio system to South Africa. The United State police and businesses used this system. A month after the TAC system was introduced to the South African market, it was reported in a South African newspaper that the South African Police was setting up an advanced new communications network named TAC covering the entire region around Johannesburg. On enquiry, RCA insisted that its hardware were not sold to the South African Police, and that all its exports to South Africa were legal. RCA did however acknowledge that the company was not able to track the end-use of its equipment within South Africa. Other exports to the South African Police during the Carter Administration included a police software system supplied by IBM through its General Systems Division. The package was called the "Law Enforcement System" and was published in the *Computer Users Handbook*, a major trade reference, in a list of software programs available from IBM. IBM denied placing the ad in the reference handbook. Lastly, the US Government helped to facilitate the flow of technology to the South African Police by allowing a senior officer of the South African Police, Major Hennie Reyneke, to visit the US for a course in electronic communications in 1980. Reyneke was the head of technical training at the South African Police College, and had received a visa from the US Government to attend the course despite the 1978 regulations that stated that South African citizens, military or civilian, were not allowed to enroll in any US military school

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51. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: *Testimony* by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, p. 7; M.T. Klare, South Africa's U.S. weapons connections, *The Nation* 229, 4 July 1979 – 8 August 1979, p. 77; Armscor Archives (Pretoria), Departmental Committees, Commissions and Control Boards, State Security, Economic Liaison Committee, File 1/15/2/3/2, Volume 5: *Document*, United States Department of Commerce Export Administration Bulletin, 16 February 1978.

or course, either as resident or correspondence students, or participate in any phase of the US Security Assistance Program involving material or training, grants, credits, or sales.<sup>52</sup>

Concerning the South African military, the 1978 regulations also banned the export of any commodity for direct or indirect delivery to the South African military. Prior to these regulations, IBM had supplied at least four large computers to the SADF. Although IBM insisted that it had not sold any new computers to the South African military since 1978, a loophole in the regulations allowed IBM and other US corporations to continue to provide maintenance and spare parts for military installations under pre-embargo commitments.<sup>53</sup> Furthermore, shortly after the 1978 regulations were announced, a South African Government official suggested that agencies like the military and police, which were unable to deal directly with US companies, could obtain US supplies through third parties. It is known that at least two South African Government subsidiary firms, Infoplan and Log-on, acted in this capacity by obtaining parts, services, training and technical data from IBM. IBM claimed that the dealings were legal and that the firms did not use the products for military-related work. However, US Department of Commerce officials acknowledged that once items were out of the control of the supplying companies, it was virtually impossible to determine how they were put to use.<sup>54</sup>

Evidence that the South African Government did in fact obtain the equipment they needed through third parties could be gathered from a confidential letter from the South African Department of Commerce to the Chairman: Armscor in January 1979. The letter quoted an article that appeared in the *Financial Mail* of 27 October 1978, which stated that US computer companies were in the running for a R1,5 million order from a South African provincial administration. The equipment could be used, inter alia, by traffic department personnel for payroll records and for computerizing car license data. According to the additional regulations that the Carter Administration published in

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52. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: **Testimony** by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, pp. 7-9; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00821: **Memorandum**, Deputy Secretary of Defense, 1978-03-18.

53. Refer to the savings clause on p. 109.

54. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: **Testimony** by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, pp. 9-10.

September 1978, South African traffic police were also included in the definition of military and police forces, and was therefore subjected to the export ban regulations. The South African Department of Commerce confirmed this in its letter to the Chairman of Armscor, adding that each individual application by the military and police entities would be considered by a panel of US Department of State and Commerce officials. However, the South African Department of Commerce was confident that the sale of a computer to the provincial administration would not be refused, noting that it was only the *Financial Mail* reporter who was aware of the computer's possible use by the traffic police. It was alleged that the US seller would not necessarily be aware of this. It was only expected from the seller to certify that to his best knowledge, the equipment or computer would not be used for military or police purposes in South Africa. Furthermore, it was pointed out to the South African Department of Commerce (it is unclear by whom), that the computerizing payroll records would be a minor percentage of the work for which the computers were required. In conclusion it was stated that the impression of the South African Economic Minister was that as long as the US export division was reasonably satisfied that the equipment was not required for military or police control, the application for an export license would be granted.<sup>55</sup>

In 1979, it was revealed that digital computers made by the Massachusetts-based Digital Equipment Corporation were sold to South Africa as part of a sophisticated radar system manufactured by a British arms-manufacturer called Plessey. It was also revealed that South African Air Force personnel were trained on the hardware in Britain, and that Plessey had sent a follow-on shipment of air defense equipment containing US technology to South Africa. Abdul Minty, the Director of the World Campaign against Military and Nuclear Collaboration with South Africa brought the case to the attention of the Carter Administration. He was of the opinion that the radar system would enable South Africa to guide and control its aircraft beyond the South African borders for surveillance purposes as well as for attacks against the neighboring states. When Minty later enquired about steps by the Carter Administration to stop the export of computer equipment to Plessey, he was informed by the Department of State that it was proceeding with enquiries and that State Department officials were bound by law not to release any information on the subject until the enquiries were finished. However, no

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55. Armscor Archives (Pretoria), Departmental Committees, Commissions and Statutory Bodies, State Security, Coordinating Economic Committee, File 1/15/2/3/2, Volume 9: **Letter** from Department of Commerce to Chairman: Armscor, 22 January 1979.



answer was forthcoming for the remainder of the Carter Administration, and therefore the case was a typical example of the re-export of US products to South Africa from third countries, which were prohibited by the 1978 regulations.<sup>56</sup>

Turning to Government-funded agencies in South Africa that received advanced hardware from the US, the Centre for Scientific and Industrial Research (CSIR) was a typical example. The CSIR helped to oversee major research and development projects in military and strategic areas. Missile development especially became one of the major research areas of the CSIR after it was generally agreed in a parliamentary debate on 6 February 1978 that the development of missiles and research with regard to missiles should enjoy greater importance in the situation that South Africa found itself in with the arms embargo. Other contributions by the CSIR to military development in South Africa included the development of poison gases, investigation of methods to store fingerprints, telecommunications research and the development of counter-insurgency vehicles, as well as consulting and testing services for Armscor and the military. The CSIR's nerve centre was its computer network that was based on large machines supplied by the US firms Control Data Corporation and IBM, which also provided training for computer personnel. Other US hardware obtained by the CSIR included computers from Perkin-Elmer, Hewlett Packard, Digital Equipment Corporation and Calcomp. In addition to these, the CSIR had strong links with Anglo-American Corporation, which had a contract with the CSIR Physics Laboratory to perform research and development on high-energy type density batteries of the order of 300 – 400 watts per kilogram for use in the automobile industry. However, Armscor was in need of technology for the local production of missile batteries to replace batteries that had reached or were nearing the end of its shelf life, as well as for future missile developing projects. The technology for producing high-energy type density batteries was similar to that employed for thermal batteries. Therefore, it is alleged that Anglo-American directly aided in the South African missile development effort by funding facilities at the CSIR for the development of high-energy type density batteries as well as a team of four people. It is unclear whether Anglo-American was aware of the end purpose of the

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56. R. Leonard, *South Africa at War: White power and the crises in Southern Africa*, p. 159; Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 4, *Testimony* by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, p. 10; File 1/17/1, Volume 5: *Summary* of the 25<sup>th</sup> Meeting of the Security Council Committee established by Resolution 421(1977), 15 December 1981.

project. Other US firms mentioned as possible sources of know-how were Eagle Pitcher, GTE and Honeywell.<sup>57</sup>

Although the 1978 US arms embargo regulations also pertained to Armscor, its subsidiaries functioning as private companies were not specifically prohibited from receiving US grey area items. These companies were diversified, meaning that they produced both civilian and military products. The following are examples of the Armscor subsidiaries that used US computer hardware:

- Atlas Aircraft, which produced military aircraft;
- Leyland South Africa, a firm that produced Land Rover vehicles for the security police;
- Barlows-South Africa and its subsidiary Marconi, which produced electronics for military use;
- Sandock-Austral, which produced strike aircraft and armored vehicles; and
- The African Explosives and Chemical Industry, which specialized in the production of explosives, ordnance, napalm and tear gas.<sup>58</sup>

According to the AFSC, the above examples highlighted a major loophole in the US arms embargo regulations, as it had little effect on the flow of high-tech equipment to South African agencies and corporations engaged in military research and development and production. Thus, it was ironic that the US law prohibited arms exports but allowed exports to arms manufacturers. However, as many of the abovementioned companies produced both civilian and military products, it was very difficult to determine how the US computer installations were being used at any given time. This constituted a major problem to the US in the implementation of the arms embargo. The same applied to the export of high-tech products to civilian South African purchasers. The 1978 regulations stated that as long as the exporter could give the assurance that items will not be sold to or used by the South African military and police, the export application would

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57. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: *Testimony* by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, p. 11; *Hansard*, 6 February 1978, p. 414; Armscor Archives (Pretoria), Armscor missiles and rockets, File K5/2/2/22, Volume 2, Document 222: *Minutes of Meeting* on missile batteries – feasibility of local production, Kentron, 14 November 1978.

58. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 4: *Testimony* by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, p. 12.

generally be considered favorably. However, the fact was that US military-specification equipment was widely accessible on the South African open market. Proof for this was found in specialized journals that regularly carried advertisements for military electronics components from US companies, for example Telonic/Berkeley, a company from California, which advertised filters for use in aerospace, military and similar applications. Another example is that of the US company TRW, which advertised detectors for use in electronic warfare systems, and yet another company, Kistler Instrument, advertised a device in South Africa for measuring ballistic gas pressure on small arms, guns and detonation chambers. Other major US electronics companies that had investments in South Africa included General Electric, Westinghouse, Sperry-Rand and ITT.<sup>59</sup>

### 3.5.1.3 The vehicle industry

The vehicle industry in South Africa also played a major strategic role in supplying the military and police. In 1978, this strategic role was highlighted when the American Committee on Africa released a secret memorandum from the South African subsidiary of General Motors. The memorandum revealed that General Motor plants in Port Elizabeth had been designated as key national points in terms of the South African Civil Defense legislation of 1966. Contingency plans for operating under conditions ranging from civil unrest to national emergency with security provided by General Motor Commando units and regular military forces were outlined. The memorandum noted that General Motors had supplied vehicles for the South African armed forces, and that any refusal by General Motors to continue doing so could raise doubts among South African government officials about the company's motives, which could lead to a loss of government business, thereby threatening the viability of the company. Lastly, it was noted that under emergency conditions, it was assumed that operation of the General Motors plants would be placed under full governmental control.<sup>60</sup>

In 1979, the US human rights activist Rev. Jesse Jackson alleged that the US firms Ford Motor Corporation and General Motors were violating the arms embargo by manufacturing military and police vehicles in their South African plants. He made this

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59. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 4: *Testimony* by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982, p. 12; R. Leonard, *South Africa at War*, p. 144.

60. R. Leonard, *South Africa at War*, pp. 144-145.

observation while on a visit to South Africa. Jackson furthermore asserted that the mentioned corporations sold about 12% of their output to the South African Government, and like many other US corporations doing business in South Africa, they were caught between Carter's human rights policy and the South African policy of apartheid. A spokesman for Ford Motor Corporation replied by reiterating that no Ford plant in South Africa produced or sold military vehicles, while a spokesman for General Motors Corporation emphasized that the commercial vehicles produced by its South African plants were strictly general-purpose vehicles, similar to those available at any new vehicle dealerships. As many equivalent products were readily available from other manufacturers in South Africa that were not subsidiaries of US companies, General Motors Corporation felt that a refusal to sell any vehicle to the South African military and police would not affect the operation of those forces.<sup>61</sup> It is thus clear that General Motors Corporation at least did supply vehicles to the South African Government and military and police forces. They didn't really have a choice, when the previous paragraph is taken into consideration: they either had to cooperate or face losing all business in South Africa. Nonetheless, they acted against the 1978 arms embargo regulations by doing so.

#### **3.5.1.4 US-South African nuclear cooperation**

South Africa became an important supplier of uranium to the US in 1953. These shipments continued until the early 1960s when the US requirements for foreign uranium declined. In the meantime, the US embarked on a program of peaceful nuclear cooperation. This started in 1955. In pursuance of this program, the US entered into a formal agreement for nuclear cooperation with South Africa on 8 July 1957. The agreement provided for cooperation in various peaceful uses of nuclear energy under safeguards and controls designed to ensure that US assistance would not be applied to military uses. The US helped South Africa build a nuclear research reactor called Safari I at Pelindaba and supplied fuel for it during the 1960's. In addition, South African nuclear scientists were trained in the US. In 1973, the Nixon Administration signed a contract with South Africa in which fuel for two new power reactors at Koeberg was promised, although completion of the power reactors was not due until the early 1980's. During all the years of US-South African nuclear cooperation, South Africa had

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61. Anonymous, Ford's, GM's S. Africa vehicle sales called embargo violation, *Los Angeles Times*, 26 July 1979, p. 12.

refused to sign the 1968 nuclear non-proliferation treaty, despite pressure by the US to do so. The treaty committed those nations who adhered thereto to refrain from obtaining nuclear arms and provided for an international system of inspection of nuclear facilities. By 1977, several US nuclear experts were of the opinion that South Africa possessed both the technological skills and materials to produce nuclear weapons within a short time. They pointed out two signs of South Africa's capabilities: first, the fact that the weapons-testing facilities in the Kalahari desert detected by a Soviet satellite in August 1977 had not been dismantled, and second, the continued construction of a uranium enrichment plant that would allow South Africa to produce weapons-grade uranium. In the light of that, the Carter Administration stood face-to-face with a dilemma: to advance the US' African policies and put pressure on South Africa, all nuclear cooperation with the latter should cease; on the other hand, to restrain the spread of nuclear weapons, cooperation with South Africa should be increased.<sup>62</sup>

To make the Carter Administration's dilemma worse, several voices were raised against US-South African nuclear cooperation, despite the fact that the US had already for two years withheld export licenses for shipment of highly enriched uranium to South Africa. The Congressional Black Caucus and other anti-apartheid groups and individuals felt that the arms embargo did not really signify a decisive program of action against South Africa. They acknowledged the Carter Administration's decision to tighten its implementation of the mandatory arms embargo, but were concerned that the Administration held back on moderate measures like denying tax credits to US companies operating in South Africa in order to discourage new investment. In addition, an end to all forms of nuclear cooperation with South Africa was urged. In answer, the Carter Administration admitted that the measures taken in November 1977 was limited, but deliberately so, because it felt that the US had limited influence in South Africa and therefore had to consider each possible step carefully. In the view of the Carter Administration, there was a serious danger that a complete break in nuclear cooperation would result in South Africa following a go-it-alone path, which could have serious implications for the stability of the Southern Africa region and would defeat US efforts

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62. J.S. Nye, Jr., U.S. nuclear exports to South Africa: Statement to the Subcommittee on Africa of the House Committee on International Relations on 12 July 1977, *Department of State Bulletin*, 22 August 1977, p. 240; B. Manning, US-S. Africa arms ban – Carter flies through the gap, *New African*, February 1978, p. 29; Study Commission on United States policy toward Southern Africa, *South Africa: Time running out*, p. 361; Department of State, The Secretary: Issues facing the United States in Africa, Statement on 12 May 1978, *Department of State Bulletin*, July 1978, p. 30.

to stop the spread of nuclear weapons. Therefore, they deemed it important to try and maintain an effective working relationship with the South African Government.<sup>63</sup>

In December 1977, the Carter Administration decided to apply a carrot-and-stick approach to nuclear cooperation with South Africa, by making future technical assistance and supplies for the two new power reactors contingent to a South African commitment to sign the nuclear non-proliferation treaty. The threat to withhold fuel was therefore based on the concern that the increasing racial strife in Southern Africa might coax South Africa into developing nuclear weapons. As explained above, several attempts had been made previously by the Carter Administration to get South Africa to adhere to the 1968 nuclear non-proliferation treaty, but it had always stopped short of threatening a nuclear fuel ban for fear that such a move would only drive South Africa into greater nuclear self-sufficiency.<sup>64</sup>

In April 1979, the nuclear issue once again surfaced when the Carter Administration was involved in an air-spying incident in South Africa. The event almost completely severed military ties between the US and South Africa. The events were as follows: On 12 April 1979, South African Prime Minister P.W. Botha announced that his Government had seized photographs that had been taken by the US Ambassador's aircraft, a twin-engine Beechcraft Super King turboprop operated by the US Air Force. Apparently, the aircraft had been converted for use as a spy plane through the installation of an aerial-survey camera under the seat of the co-pilot. The photographs seized by the South African Government showed that the embassy aircraft was engaged in a systematic program of photography of vast areas of South Africa, but specifically the top-secret nuclear research facility at Pelindaba near Pretoria and the adjoining pilot plant for uranium enrichment at Valindaba. According to Botha, the

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63. D. Myers III, *et. al.*, **U.S. Business in South Africa: The economic, political and moral issues**, p. 131; Carter Presidential Library and Archives (Atlanta), White House Central File, Subject File CO 141, Box CO-53, July 1977 – 30 May 1978: **Letter** from Z. Brzezinski to P.J. Mitchell, 24 April 1978; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00846: **Memorandum**: P. Tarnoff to Z. Brzezinski, 19 June 1978; Carter Presidential Library and Archives (Atlanta), White House Central File, Subject File CO 141, Box CO-54, 1 June 1978 – 20 January 1981: **Letter** from J. Carter to D.A. Fraser, 20 June 1978.

64. R. Burt, U.S. tells South Africa to accept atomic curbs or face fuel cutoff, **The New York Times**, 20 December 1977, p. 10; B. Manning, US-S. Africa arms ban – Carter flies through the gap, **New African**, February 1978, p. 29.

incident amounted to outright spying, which he said could be anticipated from the Soviet Union, but not from a leading Western country like the US.<sup>65</sup>

Botha made a big public issue of the incident by expelling the US military attaché, the assistant Air Force attaché and the aircraft's crew chief, and demanding an apology from the Carter Administration. He said that the incident was especially serious because senior embassy personnel who enjoyed diplomatic immunity in South Africa had conducted the espionage. The Carter Administration reacted in saying that it regretted South Africa's decision, particularly because it came at a time when the two countries were engaged in seeking solutions to the problems of Southern Africa. The allegations were not denied, however, and in a retaliatory move a day later, two South African military attachés were ordered to leave the US. The Carter Administration furthermore refused to apologize, saying that there was no reason to, as defense attachés around the world were often instructed to take photographs of a general military character.<sup>66</sup>

Privately, US officials acknowledged that the US defense attaché had taken pictures from the Ambassador's aircraft without first seeking permission from the South African Government. US military attachés, which acted as Department of Defense intelligence agents, usually collected their information by asking the host government for it. In the case of South Africa, however, the US feared that the country was busy developing a nuclear bomb, in violation of the mandatory arms embargo. Therefore, US intelligence agents reckoned they had the right to bend the rules. But why not then use the reconnaissance satellites that were known to be able to read license plates in Moscow, the Soviet Union's capital, from outer space? The reason was that Southern Africa had little industrialization and much natural ground cover, making it a difficult area to be photographed by satellites. Some information could nonetheless be gathered through

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65. S.S. Gay, *U.S. National Security policy and sanctions: The U.S. arms embargo against South Africa*, p. 8; J.F. Burns, South Africa ousts 3 U.S. Embassy aides, charging air spying, *The New York Times*, 13 April 1979, p. A1; Anonymous, U.S. accused of spying by South Africa, *Los Angeles Times*, 13 April 1979, p. 1.

66. J.F. Burns, South Africa ousts 3 U.S. Embassy aides, charging air spying, *The New York Times*, 13 April 1979, p. A1; Anonymous, U.S. accused of spying by South Africa, *Los Angeles Times*, 13 April 1979, p. 1; Anonymous, U.S. expels 2 South Africans, *Chicago Tribune*, 14 April 1979, p. 1; B. Gwertzman, U.S. expelling 2 South Africans after ouster of American Aides, *The New York Times*, 14 April 1979, p. 1; N. Kempster, U.S. to expel 2 S. African Defense Aides, *Los Angeles Times*, 14 April 1979, p. 1.



satellite surveillance, and the Ambassador's aircraft was apparently utilized to confirm the details.<sup>67</sup>

Normally, incidents like the above would be dealt with through diplomatic channels. Why then did the South African Government choose to make such a public issue of the matter? Various reasons have been suggested. Some argue that the South African Government was still upset about the institution of the mandatory arms embargo, and wanted to retaliate through embarrassing the US publicly. Another suggested reason was the information scandal that unfolded in South Africa since late 1978, which involved some people from the US political scene. The information scandal represented a South African attempt to penetrate the internal political process of the US and force a change in US policies toward South Africa through bribery and domestic channels. When the scheme was disclosed, the South African Government was embarrassed. One possible reason for making such a fuss about the spy plane incident was therefore the need to distract the attention of the South African general public from the information scandal to a foreign enemy.<sup>68</sup>

Whatever the reason for the South African Government's decision to publicly implicate the Carter Administration, some evidence show that the latter approved of the Ambassador's aircraft being equipped with a spy camera as part of the implementation of the arms embargo. Under the previous US Administration of Ford, the aircraft was stationed at a South African Air Force base outside Pretoria and was serviced by South African technicians. After the mandatory arms embargo was announced, the aircraft was moved to and flown from an international airport in Johannesburg or from a smaller airport used by private aircraft midway between Pretoria and Johannesburg. US embassy officials attributed the move to a desire to avoid contact with the South African armed forces, which were now embargoed. South African technicians were also no longer allowed to service the aircraft. It was during this time that the camera was installed. The purpose of the camera was later proved, when the South African Government came to the fore with all the details. Apparently, South African officials

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67. Anonymous, A-bomb fear blamed in S. African spying, *Chicago Tribune*, 15 April 1979, p. 2; Anonymous, A-bomb fears justified spying on S. Africa, ex-AF official says, *Los Angeles Times*, 15 April 1979, p. 6; W. Safire, Spying on Pretoria, *The New York Times*, 16 April 1979, p. 17.

68. R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, pp. 38-41; J.F. Burns, South Africa ousts 3 U.S. Embassy aides, charging air spying, *The New York Times*, 13 April 1979, p. A4; Editor, No apology is called for, *Los Angeles Times*, 15 April 1979, part V, p. 4.

had been alerted to the presence of the camera by the grid pattern that the aircraft flew and frequent deviations from the flight plans filed by the crew. After it first became known, the aircraft's flights were plotted for six months, revealing a deliberate effort to fly over South African strategic installations. This proved that the US was closely observing South Africa's nuclear activities.<sup>69</sup>

Another reason for the US using a simple camera in a small aircraft for espionage on the South African nuclear institutions could be the severe criticism of the Carter Administration for its reluctance to end all nuclear collaboration with South Africa. The suggestion is that the Carter Administration wanted to equip itself with tangible proof of South African nuclear installations being used to develop nuclear weapons. This would have provided them with an excuse to bully South Africa into signing the nuclear non-proliferation treaty. The US was furthermore continuously urged by the United Nations to end all nuclear cooperation with South Africa. Indeed, in February 1979 the United Nations Special Committee Against Apartheid in cooperation with some anti-apartheid organizations held a conference on nuclear cooperation with South Africa in the United Kingdom. During the conference, the US was implicated as one of the countries that had aided South Africa in its nuclear build-up, which by the time of the conference had allegedly amounted to a threat to world peace.<sup>70</sup> One can therefore assert that in the light of that, the US would do everything in its power to determine just how advanced the South African nuclear capabilities were. Also, the Carter Administration would still have to explain its nuclear collaboration with South Africa and other matters to the United Nations Arms Embargo Committee formed in 1977 to oversee the successful implementation of the arms embargo.

In September 1979, the US suddenly found itself in a hot seat when the nuclear issue once again surfaced as a result of a US Vela satellite detecting a one-second burst of light in a remote area of the Southern Hemisphere. The Vela satellite was specially designed to detect nuclear blasts. In addition to light sensors, also called 'bhangmeters', the satellite also had sensors that could have detected electromagnetic pulses from

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69. J.F. Burns, South Africa ousts 3 U.S. Embassy aides, charging air spying, *The New York Times*, 13 April 1979, p. A4; J.F. Burns, South Africans say seized film proves U.S. made aerial survey, *The New York Times*, 15 April 1979, p. 10.

70. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 6, File 11, Study material: *Document* on Anti-apartheid Movement (AAM)/SA ANC activities regarding arms embargoes against the RSA, 13 December 1979.

atmospheric explosion. These electromagnetic sensors were not working at the time of the flash, however, but the flash nonetheless immediately raised suspicion in the US that South Africa had test-detonated a nuclear device. This suspicion was enhanced by the fact that the Vela satellite placed the flash near Prince Edward Island in the Indian Ocean. Prince Edward Island belonged to South Africa, and was far from shipping or commercial air routes. If the suspicions that South Africa had test-detonated a nuclear device was indeed true, it would have been a serious international embarrassment for the United States, in the light of wide-ranging suspicion that it was cooperating in nuclear affairs with South Africa. As already stated earlier, the US was reluctant to end all nuclear collaboration with South Africa for the fear that the latter would then simply continue on its own. But if South Africa indeed detonated a nuclear device, it would indicate that the US had not adhered to the arms embargo and had in fact aided the South African Government in its nuclear development. This possibility must have worried the Carter Administration, as could be gathered from the minutes of a secret meeting between the Departments of State, Defense and Energy, the CIA and the National Security Council shortly after the incident. It was decided that every effort should be made to restrict circulation of the information on the incident, and that the State Department should compile a paper regarding the policy options from which the US would have to choose should evidence confirm that South Africa had indeed detonated a nuclear device. Carter himself added in his own handwriting on the agenda that it was of utmost importance that neither the allegations against South Africa nor any other information leak to the public until the US was sure of its facts.<sup>71</sup>

The suspicion of a possible South African nuclear detonation was only made known to the press for the first time a month after the incident. The Carter Administration backed away from US intelligence reports suggesting that South Africa had detonated a nuclear device, saying that there was no independent evidence that could link a particular country with the suspected explosion. The only evidence available was the detection by the Vela satellite of a pattern of light that could have been produced by a small nuclear explosion in the two- to three kiloton range. No confirmatory evidence like lingering

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71. D. Albright & C. Gay, A flash from the past, *Bulletin of the Atomic Scientists*, November/December 1997, pp. 15-17; Anonymous, U.S. backs away from reports of S. Africa A-blast, *Los Angeles Times*, 26 October 1979, p. 1; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00985: **Cable**: Secretary of State to U.S. Embassy Addis Ababa, 5 November 1979; Carter Presidential Library and Archives (Atlanta), Vertical File, South Africa: **Minutes**, Mini-Special Coordinating Committee on Possible Nuclear Detonation in South Africa, 23 September 1979.

radiation could be found. Indeed, in January 1980 a US Mini-Special Coordinating Committee on Possible Nuclear Detonation in South Africa (mini-SCC) concluded that there was no evidence to date that could clearly corroborate a nuclear explosion over the South Atlantic in September 1979; that the signal from the Vela satellite closely resembled those obtained from known nuclear explosions, but revealed a discrepancy that was sufficient to raise some doubt; that all other possible causes were ruled out except the possibility that sunlight reflected from a small meteoroid or space debris passing near the Vela satellite could have closely duplicated a nuclear signal; and that the probability of a meteoroid with just the right properties to produce such reflections was low, but so was the probability that a nuclear explosion would fail to produce any corroborative data. Yet, the committee was sure that one of these improbable events appeared to have occurred, but they could not determine with certainty whether a nuclear explosion generated the signal. In the light of these findings, the mini-SCC made the suggestion that South Africa be informed of the outcome of their analysis, and then urged to resume prompt negotiation of the proposals made by the US earlier, i.e. resumption of US nuclear reactor fuel supply in return for South African adherence to the nuclear non-proliferation treaty and acceptance of interim safeguards on the South African enrichment plant.<sup>72</sup>

South Africa denied from the onset that it was responsible for the alleged blast. Wynand de Villiers, president of South Africa's Atomic Energy Board, called the allegations complete nonsense, and Foreign Minister Pik Botha said he knew of no atomic explosion, adding that US officials should not panic so easily. None of the South African Government officials however denied that the country had the capacity to develop nuclear weapons, but insisted that the South African nuclear program was entirely peaceful. The denials were followed by suggestions on who could then be responsible for such a blast, if it had indeed occurred. In this regard, the South African naval chief indicated that the navy was investigating the possibility that an accident aboard a Soviet submarine may have caused a nuclear explosion. He said it was common knowledge that during the period of September a Soviet Echo II-class nuclear

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72. Anonymous, U.S. backs away from reports of S. Africa A-blast, *Los Angeles Times*, 26 October 1979, p. 1; Anonymous, U.S. retreats from atom test report, *Chicago Tribune*, 27 October 1979; N. Kempster & O. Johnston, Burst of light raised issue of S. Africa Test, *Los Angeles Times*, 27 October 1979, p. 1; Carter Presidential Library and Archives (Atlanta), Vertical File, South Africa: **Memorandum**: Mini-Special Coordinating Committee on Possible Nuclear Detonation in the South Atlantic, 9 January 1980.

submarine, which had the capability of carrying missiles with nuclear warheads, was in the vicinity of the South Atlantic. However, the South African suggestion aroused skepticism in the US among observers. They suspected that South Africa was trying to divert scrutiny from itself.<sup>73</sup>

By mid-1980, the Vela incident still remained a mystery. In the preceding months, all kinds of explanations were considered, including the possibility of a clandestine, joint Israeli-South African nuclear explosion. Circumstantial evidence began to pile up. For example, despite the absence of radioactivity, there was a potentially corroborative sighting by the world's largest telescope located in Puerto Rico. At the same time that the Vela satellite reported sighting a nuclear blast, the telescope recorded an unusual ionospheric ripple. It could have been caused by an earthquake or electrical storm, but scientists at the laboratory confirmed that there were no detected earthquakes at that time. Apparently, such an atmospheric disturbance was often produced by nuclear blasts. In addition, the CIA told selected members of the US Congress that the South African Navy was conducting secret maneuvers in the area of the suspected blast. Lastly, a classified US Naval Research Laboratory report had found very high levels of radiation in the thyroid glands of sheep in Australia, who lay downwind from the explosion. But despite all the suspicions and circumstantial evidence and the US' insistence that the Vela satellite had never been wrong in all its previous 41 sightings, the responsible party for the blast remained a mystery. In fact, when the South Government came into the clear in 1993 about its nuclear weapons program, admitting that South Africa had built six nuclear weapons in the 1970's and 1980's, it became clear that South Africa was not able to have detonated a nuclear bomb in 1979. The reason was that although the first two nuclear devices were completed in 1978 and 1979, neither was deliverable by aircraft. Furthermore, the first was dismantled for

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73. D. Albright & C. Gay, A flash from the past, *Bulletin of the Atomic Scientists*, November/December 1997, pp. 15-17; Anonymous, Suspect South Africa fired atomic device, *Chicago Tribune*, 26 October 1979, p. 5; Anonymous, U.S. backs away from reports of S. Africa A-blast, *Los Angeles Times*, 26 October 1979, p. 1; J. Foisie, Nuclear projects peaceful, South Africans insist, *Los Angeles Times*, 27 October 1979, p. 4; Anonymous, S. Africa hints Soviet Sub mishap caused suspected nuclear blast; West skeptical, *Los Angeles Times*, 28 October 1979, p. 5.

parts and the second remained dedicated for an underground test and was therefore not suitable for an ocean-based explosion.<sup>74</sup> To date, it is unclear what caused the blast.

Of course the Carter Administration did not know the above details of South Africa's nuclear program at the time. Therefore, they did all they could to give the impression that they could not say with certainty what caused the flash, despite a report by the US Defense Intelligence Agency that concluded that the explosion probably was from a clandestine nuclear test. Confirmation that South Africa indeed exploded a nuclear bomb, despite placing the Carter Administration on the red carpet before the United Nations Arms Embargo Committee, would have also placed it before a difficult election-year dilemma, explaining why they had not ended all nuclear assistance to South Africa as part of their implementation of the arms embargo. If South Africa was found to have attained nuclear weapons as a result of Western collaboration, it would clearly have damaged the credibility of the US' policy towards South Africa. Notwithstanding this danger, however, the Carter Administration continually opposed any suggestions that South Africa be expelled from the International Atomic Energy Agency (IAEA), as they felt that it would diminish the possibility that international cooperation could influence the South African nuclear program. Furthermore, the Carter Administration continually disagreed with the view that negotiations to secure South Africa's adherence to the nuclear non-proliferation treaty and acceptance of nuclear safeguards have enhanced that country's nuclear capacity by permitting continued unsafeguarded operation of the Valindaba enrichment plant. According to the Carter Administration, ending the negotiations would eliminate the only ongoing effort to minimize the proliferation dangers posed by the unsafeguarded operation of the Valindaba enrichment plant.<sup>75</sup>

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74. Anonymous, Report atomic explosion by Israel in September, *Chicago Tribune*, 22 February 1980, p. 1; J.K. Cooley, New US concern: repercussions over nuclear-type flash, *The Christian Science Monitor*, 25 February 1980, p. 1; R.A. Manning & S. Talbot, 'The case of the mystery flash', *Los Angeles Times*, 18 July 1980, Part II, p. 7; S. Goldfield & H. Obenzinger, South Africa: The Israeli Connection, *American Arab Affairs* 18, Spring 1986, p. 123; D. Albright, A flash from the past, *Bulletin of the Atomic Scientists* 53(6), November/December 1997, pp. 15-17; P. Liberman, The rise and fall of the South African bomb, *International Security* 26(2), Fall 2001, p. 45.
75. R.A. Manning & S. Talbot, 'The case of the mystery flash', *Los Angeles Times*, 18 July 1980, Part II, p. 7; J.K. Cooley, New US concern: repercussions over nuclear-type flash, *The Christian Science Monitor*, 25 February 1980, p. 1; Federation of American Scientists, BMD List, Subject: RSA Flash, 29 July 1997; B. Manning, US-S. Africa arms ban – Carter flies through the gap, *New African*, February 1978, p. 29; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 1, File 2, Presentations/Parliamentary questions/Statements: *Note verbale*, Representative of the United States of America to the Chairman of the Security Council Committee established by Resolution 421 (1977) concerning the question of South Africa, 14 April 1980.

### 3.5.2 ILLEGAL/CLANDESTINE ARMS-RELATED DELIVERIES TO SOUTH AFRICA

The Carter Administration had always stood by the fact that they had adhered to their commitment to the arms embargo against South Africa, and this was found to be true. No evidence could be found of illegal sales to South Africa by the Carter Administration itself. However, much evidence could be found of widespread embargo violations by US corporations and their overseas subsidiaries. An investigation of some of these cases and how the Carter Administration acted when the guilty corporations were caught out, will hopefully provide a picture of how sincere the Carter Administration was in its implementation/enforcement of the arms embargo.

#### 3.5.2.1 Olin Corporation

Illegal sales of rifles, shotguns and ammunition to South Africa by the Colt Firearms division of Colt Industries and the Winchester arms division of Olin Corporation between 1971 and 1975 came to light in 1976. Although the sales took place as violation of the 1963 arms embargo<sup>76</sup> and thus not within the time frame of this study, the indictment and sentencing of the guilty parties was undertaken by the Carter Administration in 1978. It was the first time that a US company was formally charged with violating the arms embargo<sup>77</sup>, and the Carter Administration was therefore placed in a difficult position in deciding how to handle the case. It was also a test to determine how serious the Carter Administration was concerning the enforcement of the arms embargo.

The items sold to South Africa by the two companies were shipped via dummy firms in the Canary Islands, Austria, Greece, West Germany and Mozambique. The disclosure led to several court proceedings. The first resulted in the one-year sentence of Walter Plowman, an employee of Colt Industries who pleaded guilty. Because he pleaded guilty, he was never placed on trial, thereby sparing Colt Industries the embarrassment of having its employees testify under oath on the deals with South Africa. Olin was however not so lucky. On 14 March 1978, the company was indicted on charges of conspiring between 1971 and 1975 to illegally ship arms to South Africa and filing 20

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76. The arms embargo of 1963 "*Solemnly calls(ed) upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa*". See M.S. van Wyk, *The 1963 arms embargo against South Africa: Institution and implementation*, p. 135.

77. Anonymous, The arms embargo is enforced, *The New York Times*, 26 March 1978, p. D2.



fraudulent export documents on 3 200 firearms and 20 million rounds of ammunition with the Department of State, in which the destination of the arms was concealed. Olin had arranged to have an arms dealer in South Africa solicit orders for firearms and ammunition from retailers in that country and then make arrangements with arms dealers in the mentioned countries to order the arms from Olin. The latter then falsified export applications by naming one of the four countries as the destination of the arms. According to the indictment, Olin knew that South Africa was the final destination of the arms.<sup>78</sup>

After the indictment was handed to a Federal Judge, Judge Robert C. Zampano, Olin conceded that employees of the Winchester wing had carried out the acts, but without the knowledge of the senior management of Olin. In a company statement, Olin stated that the indictment held the company responsible for the acts of certain sales employees of Winchester, despite the fact that the actions violated Olin's long-standing policies. The individuals involved were dismissed following Olin's own investigation, but the company declined to say how many. Also, most of the weapons sold were shotguns and not weapons of war. Under the 1963 arms embargo, shotguns did not require export licenses from the Department of State, only from the Department of Commerce. However, US Government documents filed in the court case made it clear that the shipments also included .22 and .50 caliber rifles. On 21 March 1978, the company pleaded no contest. Judge Zampano accepted the plea, noting that it was tantamount to an admission of guilt, over the strenuous objections by the US Attorney-General, Richard Blumenthal, who insisted that the plea permitted Olin to cover high corporate responsibility for the illegal acts. Olin's Attorney in answer replied that Olin had fully recognized what happened and conceded that it should not have happened. It therefore took full responsibility. On 30 March 1978 Zampano passed sentence by ordering Olin to pay \$510 000 for charity programs in New Haven as reparations for its illegal arms sales to South Africa. It was an unusual tactic that surprised all involved, as it suspended sentence and placed the company on probation. Zampano said the violations by Olin constituted crimes of great magnitude. It breached the policy of the US and could reflect negatively on the credibility of the US in the eyes of the world. The

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78. M. Klare, The corporate gunrunners: South Africa's U.S. weapons connections, *The Nation* 229, 4 July – 8 August 1979, p. 75; R.E. Tomasson, Olin Corp. indicted for shipping arms to South Africans, *The New York Times*, 15 March 1978, p. D1; Anonymous, Beer and firearms: Two indictments, *The New York Times*, 19 March 1978, Section III, p. 15.

sentence was therefore designed to reestablish the confidence of the community in Olin. On 1 June 1978 Olin was also fined \$45 000 for illegally shipping arms to South Africa. Apparently, the fine was less than a tenth of the maximum penalty for such an act.<sup>79</sup>

After the illegal arms sales of Olin Corporation came to light, the Department of State's Office of Munitions Control tightened up their procedures. Importers of US arms were now compelled to provide permits from their own governments showing that they approved the arms importation. This was specifically aimed at preventing countries being used as transshipment points. Furthermore, it became compulsory for arms importers to provide assurances that the arms would not be resold to countries on the US embargo list. These assurances could be demanded previously, but according to the Department of State, they rarely were. Penalties on importers for violation of the arms embargo included being refused the right to import additional US goods. US companies who violated the embargo could be punished by being denied export licenses.<sup>80</sup>

### 3.5.2.2 Concealable Body Armor of America, Inc.

Another smuggling case involving handguns and rifles came into the clear in August 1978. This time, a South African gun wholesaler was also arrested and convicted in the US. The case involved Seymour G. Frelich, secretary-treasurer of a company called Concealable Body Armor of America, Inc., his partner Frank R. Greenberg and Richard Beck, a South African gun wholesaler. The US firm was a police supply firm in Oak Park, Michigan. According to a seven-count indictment, 405 handguns and semi-automatic rifles and 4,550 rounds of ammunition were smuggled to South Africa from April 1977 to April 1978, via the O'Hare International Airport in Chicago and Kennedy International Airport in New York City. In addition, US customs officials at O'Hare International Airport seized an additional 140 weapons and 5,000 rounds of ammunition in February 1978, before they could be exported to South Africa. The smuggled arms were disguised as cartons of playground equipment and underwater breathing devices

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79. R.E. Tomasson, Olin Corp. indicted for shipping arms to South Africans, *The New York Times*, 15 March 1978, p. D1; R.E. Tomasson, Olin not contesting arms sale charge, *The New York Times*, 22 March 1978, p. D1; Anonymous, The arms embargo is enforced, *The New York Times*, 26 March 1978, p. D2; R.E. Tomasson, Judge in arms case orders Olin to pay \$510,000 in charity, *The New York Times*, 31 March 1978, p. D1; Anonymous, Gun firm told to donate fine for community work, *Los Angeles Times*, 31 March 1978, p. 1; R.E. Tomasson, Olin's arms penalty; 'Donation' plus fine, *The New York Times*, 2 June 1978, p. D1.

80. Anonymous, Gun running to South Africa, *Southern Africa* 11(8), November 1978, p. 25.

bound for a Swiss customer. The indictment also charged that Beck, along with other unnamed South African dealers, ordered arms, ammunition and implements of war, including but not limited to handguns, rifles, rifle scopes, rifle sights, firearms parts, ammunition, bullet casings, firearms magazines, firearms primers, explosive powder and firearm rigging equipment valued at more than \$350,000.<sup>81</sup>

In the light of the above facts, the charges in the indictment against Concealable Body Armor of America, Inc. included conspiracy, exporting and attempting to export arms to South Africa without proper licensing, and falsifying customs documents to conceal the shipments. This constituted a violation of the US domestic arms laws pertaining to the arms embargo against South Africa. On 17 November 1978, Beck was arrested at the O'Hare International Airport in Chicago after he stepped off an airplane for his first visit to the US. He was charged with conspiracy and falsification of customs documents, and due to a stiff bail of \$500,000, he remained in custody until 6 February 1979, when the Carpentersville village president, Orville Brettman, offered to put up his home, two cars and all his belongings as collateral for Beck's bail. Brettman met Beck when he was locked up for four days defying a court order. The District Judge assigned to the case accepted \$30,000 worth of Brettman's property, as well as \$25,000 worth of guns that belonged to Beck but were seized by the customs agents at O'Hare airport in February 1978. Beck was ordered to report to the Federal Bureau of Investigation (FBI) every day, including weekends, and Brettman was ordered to notify the authorities if Beck was out of his presence for more than two hours.<sup>82</sup>

During the trial that followed, Beck's US accomplice, Frelich, pleaded guilty and was sentenced to two years in prison. Beck admitted that he had received 405 firearms and 4,550 rounds of ammunition from Frelich, but said that he was lured to the US by Frelich, after which he was arrested. He also testified that he had thought that the arms embargo applied only to military hardware and emphasized that under South African law it was not illegal to import arms. This statement was however crushed when the prosecutors introduced an incriminating letter that Beck wrote to Freilich after the Carter

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81. L. Strobel, Charge gun-running via O'Hare, *Chicago Tribune*, 4 August 1978, p. 5; Anonymous, Gun running to South Africa, *Southern Africa* 11(8), November 1978, p. 24; F.J. Parker, *South Africa: Lost Opportunities*, p. 142.

82. L. Strobel, Charge gun-running via O'Hare, *Chicago Tribune*, 4 August 1978, p. 5; J. Branegan, O'Hare swoop on 'guns' suspect, *Chicago Tribune*, 18 November 1978, p. 5; J. Branegan, Jail 'friend' posts bond for suspect, *Chicago Tribune*, 7 February 1978, p. 3.

Administration announced a tightening of arms restrictions to South Africa: “*We will circumvent his [Carter’s] best intentions somehow*”.<sup>83</sup> He was convicted in April 1979 on six counts of aiding and abetting the illegal export of guns in violation of the arms embargo and making false customs declarations. He was acquitted on one count of conspiracy, in which he was charged with helping his US supplier prepare the false customs documents and arrange to ship the arms through Switzerland. The conviction meant a maximum of 12 years in prison and several thousand dollars’ fines.<sup>84</sup>

On 29 May 1979, the case against Beck took an unexpected turn when a Federal Judge overruled the guilty verdict. Because he was acquitted of the charge of conspiring with Freilich to violate the US arms embargo against South Africa, the Judge said he couldn’t find that Beck aided and abetted in violating US laws. He said in the light of the verdict on the conspiracy count, there was not enough evidence beyond reasonable doubt to find Beck guilty of the other charges. He pointed out that the evidence showed Beck himself had nothing to do with preparing the incorrect customs documents. In this regard, the Judge said that an aider and abetter had to fulfill an active part. Merely knowing what was happening was not the same. However, the Federal Judge’s act did nothing more than plunging Beck into a muddle of political paradox. The reason: the US Court of Appeals on 1 June 1979 ordered that Beck stay in detention while federal prosecutors challenge the innocent verdict passed by the Federal Judge – a process that could take at least eight months to reach a decision. He was only released on his own recognizance on 7 July 1979, after his bail was withdrawn and the Court of Appeals reversed its earlier ruling that he must stay in detention. The US authorities retained his passport and the South African Consul-General in Chicago, Gerald Kalk, had to extend an undertaking that no alternative travel document would be issued to Beck.<sup>85</sup>

On the South African side, the Government’s initial reaction was that Kalk kept fully abreast of Beck’s case, but he could not interfere with the US judicial process. The attitude of the South African Embassy in the US was that the appeal had to run its

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83. As quoted in J. Branegan, South African convicted on arms embargo charge, *Chicago Tribune*, 18 April 1979, p. 2.

84. Branegan, South African convicted on arms embargo charge, *Chicago Tribune*, 18 April 1979, p. 2; J. Branegan, Judge reverses guilty verdict on gun-running, *Chicago Tribune*, 20 May 1979, p. 3; R. Smuts, I knew hijacker – Beck, *The Sunday Times*, 24 June 1979, p. 5.

85. J. Branegan, Judge reverses guilty verdict on gun-running, *Chicago Tribune*, 30 May 1979, p. 3; J. Branegan, Weapons seller wins but loses, *Chicago Tribune*, 5 June 1979, p. 1; R. Smuts, I knew hijacker – Beck, *The Sunday Times*, 24 June 1979, p. 5; R. Smuts, Freed SA gun dealer faces long US wait, *The Sunday Times*, 8 July 1979, p. 7.

natural course. Beck complained bitterly in a telephonic interview with *The Sunday Times* that the South African Government did nothing to help him. He said that he suspected that the whole issue was politically motivated and that he had become a political prisoner. He complained that he had been acquitted, but the prosecution was determined to put him back in jail. One of the prosecutors allegedly told Beck that it was about time that "*South Africa's racists are [were] dealt with*".<sup>86</sup> After Beck's complaints, Kalk had sent a letter to the Illinois State Attorney in which he pointed out that since Beck's acquittal, the whole process verged on the punitive. It was then that Beck's bail was withdrawn and he was even granted a temporary work permit that would allow him to seek employment in the state of Illinois until the appeal case was finished.<sup>87</sup>

It is unclear what finally became of Beck, but it is clear from the above that the Carter Administration was adamant to enforce the arms embargo. It seems that Beck did not make the wrong conclusion when he suspected that the whole issue was politically orientated. The whole issue had the smell of a clever political move by the Carter Administration, who would in the near future face an election year. Beck, being a South African citizen, presented the Carter Administration with an opportunity to make a public example of how serious they were in implementing the arms embargo.

### 3.5.2.3 Space Research Corporation

The cases of Olin Corporation and Concealable Body Armor of America, Inc. did not directly benefit the South African military and police, and were small in comparison with next violation of the arms embargo to surface. This case directly involved dealings by Armscor and the South African Government with Space Research Corporation (SRC), a private company situated on both sides of the US-Canadian border, between North Troy, Vermont in the US and Highwater, Quebec in Canada. The case was a large-scale violation of the arms embargo that started during the Ford Administration but continued well into the Carter Administration. During this time, Armscor obtained the blueprints of an advanced artillery system from SRC, and over a period of two years, i.e. 1976 to 1978, SRC also supplied shells, gun barrels, technicians and testing equipment to South

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86. As quoted in R. Smuts, I knew hijacker – Beck, *Sunday Times*, 24 June 1979, p. 5.

87. R. Smuts, I knew hijacker – Beck, *Sunday Times*, 24 June 1979, p. 5; R. Smuts, Freed SA gun dealer faces long US wait, *The Sunday Times*, 8 July 1979, p. 7.

Africa. The deal enabled South Africa to develop a world-renowned artillery system called G5 and a later system called G6.<sup>88</sup>

SRC was found by Dr. Gerald Bull, a brilliant scientist at the McGill University in Montreal, Canada, where he headed up a team of scientists on a project called the High Altitude Research Project. Bull and his team developed a giant gun with a barrel length of 52 m and a barrel diameter of 40 cm. However, it was the shells for the gun that was Bull's real breakthrough. It could literally be shot clean of the earth's atmosphere and into space. This had drawn the attention of the US Army, who started to pay half the bill of Bull's research. Eventually, the high altitude research became too expensive for Canada and also too military for McGill University. Consequently, Bull turned to the US Army for more money, and a new, private company called Space Research Corporation (SRC) was registered as a US company. Two front companies were established to enable SRC to function more effectively, namely a Belgian marketing company called SRC International based in Brussels, and SRC Quebec situated in Montreal, Canada. SRC furthermore established test range facilities in Barbados and Antigua in the Caribbean. Bull became the president and chief scientist of the new company. The research focused on the further development of the big shells, and a new 155 mm Extended Range Full Bore (ERFB) shell saw the light. It was longer and thinner than the conventional shell, and could hit targets 30 kilometers away, much further than the conventional shell. However, Bull and his team still dreamed of even bigger guns that could ultimately replace missiles and still deliver the same deadly payload, so they also focused their research on the development of a 155 mm gun system.<sup>89</sup>

Contact between Armscor and SRC date back to 1975, when South Africa found itself in serious trouble in skirmishes with the MPLA forces on the South West Africa (Namibia) and Angolan border. The MPLA forces had Soviet-manufactured 122mm rocket launchers that caused havoc among the South African forces. The range of the

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88. R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p.141; Armscor Archives (Pretoria), Main Management, Foreign Relations and Organization, Embargo, File 1/17/1, Volume 4: **Article**, 'Suid-Afrika: Wapenverkryging', 7 May 1980.

89. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01039: **Court document**: United States of America vs. Space Research Corporation (U.S.), 25 March 1980, p. 35; National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978; WGBH, Arms for South Africa: the American connection, **Issue** 9(1/2), Spring/Summer 1979, p. 52; L.J. van der Westhuizen & J.H. le Roux, Armscor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 41-42.

available South African artillery to counter the 122mm rockets fell short by far, and an urgent need for an improved type of artillery system developed. The South African Chief of Defense accordingly instructed the urgent acquirement of twenty long-range guns with a range of at least 24km. In a special submission to the South African Cabinet on 19 January 1976, Defense Minister P.W. Botha requested additional funding to acquire the needed guns, emphasizing that the threat to South Africa had become conventional and enormous in extent and intensity. According to him, South Africa's position had become more isolated and that the concept of self-sufficiency had to be interpreted and applied in a wider sense. The Cabinet approved and immediate attention was given to attempts to acquire 130mm or 155mm long-range guns with a 39-caliber barrel length.<sup>90</sup>

Various overseas visits by a specially appointed project team were undertaken, but the South African need could not be met to satisfaction. It was then decided to pursue a possible deal with SRC, whose shells had already been tested and found to be scoring well by the SADF in Southern Angola after obtaining it from Israel in 1975. Lt.Col. John Clancey, a US Marine officer on assignment to the CIA in South Africa was contacted and he in turn suggested Colonel John Frost, a retired US Air Force officer who operated as an arms dealer, and who had contact with the CIA and the US Army. Within a short space of time, two senior Armscor officials met Frost during a visit to Bangkok to organize the shipping of various types of arms from Thailand. In January 1976, Frost introduced them to Luis Palacio, a SRC engineer and confidant of Bull who was in charge of the SRC office in Belgium. SRC was also informed of South Africa's needs through J.H. Place, the director of a South African company called Vereeniging Engineering Design Supplies. Place used two channels: first, through N. Angel, the owner of an international company called Aircraft Equipment who was requested by Bull to market SRC's 155 mm ERFB ammunition at the end of 1975; and secondly through Palacio. Bull responded positively, asking Palacio to investigate the South African need despite a possible embarrassment should an arms deal with South Africa be concluded. An offer then followed to provide South Africa with the necessary expertise to manufacture extended range ammunition (artillery shells) for both 88 mm and 155 mm

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90. WGBH, Arms for South Africa: the American connection, *Issue* 9(1/2), Spring/Summer 1979, p. 52; L.J. van der Westhuizen & J.H. le Roux, Armscor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 37-43; Armscor Archives (Pretoria), Main Management, Foreign Relations and Organization, Embargo, File 1/17/1, Volume 4: *Article*, 'Suid-Afrika: Wapenverkryging', 7 May 1980.



guns, to upgrade 88 mm guns to 105 mm, and to put staff aside who would provide the necessary training and instruction in this regard.<sup>91</sup>

Direct negotiations between South Africa and SRC commenced in February 1976, where-after SRC indicated that should an agreement on the ammunition sales be reached, it would also offer ten units of M2 155 mm artillery systems that were obtained from the US Army for research purposes. The proposals were the answer to South Africa's needs. In April 1976, the country proceeded to sign a contract with SRC that called for 35,000 155 mm ERFB shells with a similar number of fuses, primers and propellant charges to be supplied by SRC. In addition, the contract called for component parts of the 155 mm ERFB shells, including items called boat tails and obdurators. South Africa furthermore bought ten 155 mm M2 artillery systems from SRC, which were to become known as G3's in South Africa. To counter the traceability of transactions, SRC and the South African Armaments Board did not draw up the contracts in their own names and also did not sign it. The South African Government set up a company called Colet Trading Establishment to act on its behalf. SRC concluded the contract through a company called Paragon Holdings Limited. In December 1976, South Africa ordered an additional 15,000 shells from SRC.<sup>92</sup>

In addition to the above contracts, SRC also made an offer to South Africa concerning the development and manufacturing rights of US M114 medium artillery systems. SRC was in the process of modifying these systems to extend its range. The offer by SRC entailed the development and modification of the M114 artillery system by using the upper structure of the US X198 guns. South Africa would have a 50% responsibility in development of the guns up to prototype stage. In May 1976, Bull and Palacio visited South Africa for the final negotiations. The offer was confirmed and was immediately accepted by the South African Armaments Board. To conclude the deal, a development contract was drawn up and concluded in July 1976. The contract made provision for a

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91. W. Lowther, *Arms and the man: Dr. Gerald Bull, Iraq and the Supergun*, pp. 114-115; L.J. van der Westhuizen & J.H. le Roux, Arm Scor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 42-43; Arm Scor Archives (Pretoria), Main Management, Foreign Relations and Organization: Embargo, File 1/17/1, Volume 4: **Article**, 'Suid-Afrika: Wapenverkryging', 7 May 1980.

92. L.J. van der Westhuizen & J.H. le Roux, Arm Scor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 43-46; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01039: **Court document**: United States of America vs. Space Research Corporation (U.S.), 25 March 1980, p. 36; Arm Scor Archives (Pretoria), Main Management, Foreign Relations and Organization: Embargo, File 1/17/1, Volume 4: **Article**, 'Suid-Afrika: Wapenverkryging', 7 May 1980.

preparatory study of the modified gun, the establishment of production facilities by SRC in South Africa, the construction of one prototype converted M114 155 mm gun with a 39 caliber barrel and two prototypes of a new gun that later became known as the G4, and the provision of 60 units of the new type of guns to South Africa before March 1978. SRC would be responsible for the development of the prototypes up to the determining of the load and the firing test phase. South Africa would undertake the qualification of the ammunition, for which a test range was built at Schmidtsdrift near Kimberley. In October 1976, SRC signed an agreement with South Africa for the transfer of a radar tracking system with two vans to South Africa. It was to be used at the Schmidtsdrift test range. SRC again signed the contract as Paragon Holdings Limited and Armscor as Colet Trading Establishment.<sup>93</sup>

SRC faced a number of difficulties in fulfilling the contracts, and proceeded to tackle it in various illegal ways. Export permission had to be obtained from the US Office of Munitions Control for transactions such as those listed in the contract, and the shipment of the items to South Africa had to be done in a clandestine way, as it was a direct breach of the 1963 arms embargo. Concerning the shells, Bull contacted the Office of Munitions Control to make sure that if he placed an order with the Chamberlain Manufacturing Corporation in Pennsylvania for the rough shell forgings, there would be no restrictions on exporting them. The Office of Munitions Control twice assured Bull that there would be no restrictions, as rough shell forgings were not considered to be weapons. SRC then proceeded to place an order with the Corporation and as soon as they were finished, they were picked up by SRC and taken to North Troy, Vermont. Thereafter, SRC filed a number of US Customs export declarations, indicating itself as the ultimate destination and consignee and Highwater, Quebec as the ultimate destination. Then SRC took the forgings from North Troy to Highwater, where they were machined and finished. But another problem still remained: how to export the

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93. L.J. van der Westhuizen & J.H. le Roux, Armscor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 51-55; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01039: *Court document*: United States of America vs. Space Research Corporation (U.S.), 25 March 1980, pp. 41-42.

shells and gun assemblies safely to South Africa without being exposed, as it was a direct breach of the arms embargo.<sup>94</sup>

Antigua in the Caribbean seemed to be the answer to SRC's shipping problems. Over the previous few years, SRC had developed a special relationship with this island, by training and financing the Antiguan Defense Force. In return, SRC was allowed to run a top secret, heavily guarded testing site in a remote part of the island called Crab's Point. It was equipped with tracking and surveillance radars, telemetry receiving stations, tall antennae and a huge cannon. The testing site was the ideal place for SRC to ship shells and other equipment, under the cover that it was to be used there or forwarded to SRC's test site at Barbados. Thus, in early 1977, the first shipment to South Africa went this route. For this shipment, SRC assembled 36 containers on the dock of St. Johns Harbor, New Brunswick, Canada. Some of these containers contained shells, while others contained dismantled guns of which the parts were painted yellow and crated as roadwork equipment. The barrels were crated separately as hydraulic tubes. The Canadian police was tipped on the operation and they arrived at St. Johns Harbor on the day of shipping, but finding that the crates only contained yellow iron parts, they accepted that the information they received was incorrect and the cargo was allowed to be shipped. A ship called the Moura picked up 20 of the containers en route to St. John's, Antigua. Shipping papers stated that they were filled with 155 mm rough steel forgings. Another ship called the Lindinger Coral picked up the remaining containers, which shipping papers listed as containing steel forgings and a meteorological van.<sup>95</sup>

Both the ships sailed to St. John's, Antigua and unloaded their containers there, where it remained until it was picked up two weeks later by a ship called the Tugelaland. The Tugelaland was registered by a Hamburg company called Globus Reederey, but in fact this company was wholly owned by the South African Marine Corporation (Safmarine), the South African Government's shipping line. The Tugelaland listed its destination as

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94. W. Lowther, *Arms and the man: Dr. Gerald Bull, Iraq and the Supergun*, p. 116; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01039: **Court document**: United States of America vs. Space Research Corporation (U.S.), 25 March 1980, p. 37; Armscor Archives (Pretoria), Main Management, Foreign Relations and Organization, Embargo, File 1/17/1, Volume 4: **Article**, 'Suid-Afrika: Wapenverkryging', 7 May 1980.

95. National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978; WGBH, *Arms for South Africa: the American connection*, *Issue* 9(1/2), Spring/Summer 1979, pp. 52-54; F. Emery, *Shipment of long-range shells to South Africa through Antigua alleged in BBC Panorama report*, *London Times*, 6 November 1978, p. 1; D.C. Martin & J. Walcott, *Smuggling arms to South Africa*, *The Washington Post*, 5 August 1979, p. B2.

Canada, but in fact, after picking up the cargo, it headed for Cape Town, South Africa, where it docked on 7 June 1977 and offloaded the cargo. According to SRC, the containers picked up by the Tugelaland in Antigua were empty and the shells stayed on the island. However, the records of the Antiguan port director, Emil Sweeney, as well as the documents of SRC's shipping agent in Antigua, Vernon Edwards, showed that the containers were filled with steel forgings, two field gun assemblies, a radar van and other equipment. The unloading of these items from the Tugelaland in Cape Town was later confirmed.<sup>96</sup>

Scientific material relating to the guns, ordinarators and a radar tracking system to monitor the working of the guns and the missiles launched from it were exported by SRC on aircraft to South Africa. Seven cutaway demonstration shells used to instruct ballistics workers on how to load and fill ERFB shells, were also exported this way. By the end of 1976, South Africa had received the first technological feedback on the converted M114 gun through the delivery of a set of M114 gun modification design drawings, the computer programs and data used for the development of the drawings, and the property rights of the blueprints. Eventually, the success of the joint development of long-range guns for the SADF not only led to a formal instruction by the South African Government to continue with the development of the G3 gun, but also with the design and manufacturing of the improved G5 gun. Thus, the SRC-South African cooperation in the initial development of the modified guns paved the way for the South African development of an advanced artillery system.<sup>97</sup>

The second shipment of SRC shells to South Africa occurred in August 1977. This time, it was the Tugelaland that picked up 30 containers at St. John, New Brunswick. Ten of these containers were empty, but the rest contained more than 10,000 shells.

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96. National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978; WGBH, *Arms for South Africa: the American connection*, *Issue* 9(1/2), Spring/Summer 1979, pp. 52-54; F. Emery, *Shipment of long-range shells to South Africa through Antigua alleged in BBC Panorama report*, *London Times*, 6 November 1978, p. 1; D.C. Martin & J. Walcott, *Smuggling arms to South Africa*, *The Washington Post*, 5 August 1979, p. B2.
97. W. Lowther, *Arms and the man: Dr. Gerald Bull, Iraq and the Supergun*, pp. 117-118; L.J. van der Westhuizen & J.H. le Roux, *Armcor and the birth of the G5 artillery system*, *Journal for Contemporary History* 22(2), December 1997, pp. 43-51; South Africa: *The making of United States policy, 1962 - 1989*, microfiche collection: National Security Files, fiche 01039: *Court document: United States of America vs. Space Research Corporation (U.S.)*, 25 March 1980, p. 41; Armcor Archives (Pretoria), Main Management, Foreign Relations and Organization: Embargo, File 1/17/1, Volume 4: *Article*, 'Suid-Afrika: Wapenverkryging', 7 May 1980.

According to the Canadian shipping papers, all 30 containers were to be unloaded when the Tugelaland reached Antigua. However, this did not happen. Only the ten empty containers and three others containing jeep parts and cement were unloaded. Then the Tugelaland proceeded to load some additional SRC containers with a number of used 155 mm shells for research purposes and 155 mm gun barrels. The incident was well remembered, as an accident occurred that day. While loading the cargo, the crane malfunctioned and the operator accidentally dropped a container into the Tugelaland hold. The doors of the container burst open, revealing a lot of ammunition and at least one shell similar to those that SRC tested on the island. Furthermore, the shipping papers stated the Tugelaland was bound for Barbados, but one of the dockworkers caught the captain saying that the ship was on its way to South Africa. This caused an uproar under the Antiguan dockworkers, which refused to handle SRC's cargoes in the future. Left-wing elements on the island started attacking the Antiguan Government, who in turn commissioned a report on SRC in order to clear itself from any complicity in arms shipments to South Africa.<sup>98</sup>

In January 1978, SRC used the US Navy to carry 4,500 shells destined for South Africa to Antigua. These shells were taken by truck from the Canadian side of SRC to Port Canaveral in Florida in the US, where they were loaded aboard US Navy-chartered cargo vessels and shipped to Antigua under a US Government bill of lading. In Antigua, the shells were transferred to another vessel enroute to South Africa. At the same time, SRC was busy assembling its biggest shipment of SRC shells to South Africa, i.e. 55 containers, at St. John, New Brunswick. According to the export document that the Canadian Government granted, the containers held 155 mm ERFB inert projectiles to be used at the SRC test site in Antigua. Once again the Tugelaland was chosen to carry the shells, but before it could even dock in St. John, the leader of the Rhodesian resistance movement ZAPO, Joshua Nkomo, claimed in a news conference in Ottawa, Canada, that a large quantity of artillery projectiles had been shipped from Canada to South Africa via Antigua. He said he did not know the name of the firm involved, but he indeed knew the name of the ship, namely the Tugelaland. The Canadian Government immediately ordered an investigation after establishing that SRC was the only Canadian-

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98. National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978; WGBH, *Arms for South Africa: the American connection*, *Issue* 9(1/2), Spring/Summer 1979, pp. 53-54; D.C. Martin & J. Walcott, *Smuggling arms to South Africa*, *The Washington Post*, 5 August 1979, p. B2.

based arms company with links to Antigua. SRC, St. John Harbor in New Brunswick and the port in Antigua were investigated, during which SRC produced the necessary export documentation for the containers stacked at St. Johns Harbor.<sup>99</sup>

The initial investigations could produce no evidence, so SRC proceeded to seek another export permit for the containers stacked at St. Johns, New Brunswick. This time, the Government of Spain was to receive the 155 mm projectiles, but SRC had to wait almost six months before the containers could be shipped. Because of Nkomo's charges, the Canadian police opened every container and every tenth casing before clearing the shipment. In March 1978, a Danish ship, the *Nordfarer*, entered St. Johns Harbor, quickly loaded the 55 containers and left for Spain. It docked at Barcelona, where the containers were offloaded and consigned to a company called Barreros Semanos, with whom both SRC and Armscor had dealings. Two days after the containers arrived in Barcelona, they were put on trucks and taken to the port's free zone, where cargo was kept when in transit. According to a shipping document, the containers remained there until they were picked up by a Dutch ship called *Breezand*, who then proceeded to Durban, South Africa.<sup>100</sup>

In the meantime, the US Government had also started an investigation in April 1978 by sending a US Customs agent to Antigua. By this time, SRC's alleged exports to South Africa was fast becoming a serious matter, as it now also meant a violation of the mandatory arms embargo against South Africa announced in November 1977. The agent found that SRC's test gun on Antigua had not been fired for some time, despite a contract with the US army for ballistic testing. In June 1978, another US Customs agent reported that SRC had made at least seven shipments of arms to South Africa through Antigua and Barbados; five in 1977 and two in 1978. Evidence was uncovered

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99. M.T. Klare, Evading the embargo: Illicit U.S. arms transfers to South Africa, *Journal of International Affairs*, Spring/Summer 1981-1982, p. 23; M.T. Klare, Corporations that sell arms to South Africa, *Business and Society Review* 11, Fall 1980, p. 47; National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978; W. Lowther, *Arms and the man: Dr. Gerald Bull, Iraq and the Supergun*, p. 120; WGBH, Arms for South Africa: the American connection, *Issue* 9(1/2), Spring/Summer 1979, pp. 54-55.
100. National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978; WGBH, Arms for South Africa: the American connection, *Issue* 9(1/2), Spring/Summer 1979, pp. 54-55; L.J. van der Westhuizen & J.H. le Roux, Armscor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 59-60; M.T. Klare, Evading the embargo: Illicit U.S. arms transfers to South Africa, *Journal of International Affairs*, Spring/Summer 1981-1982, p. 23.



of the shipment via Port Canaveral in Florida. The shipping documents designated the shells for testing in Antigua. However, according to US Customs, the quantity was far more than necessary for testing purposes. Also, it came to light that the only contract the US Army had with SRC for testing designated White Sands, New Mexico, as the test site. In Antigua, an investigation of the gun barrels at the SRC site revealed that two were missing. SRC was confronted with the fact, but said that many shots had been fired and that the barrels consequently showed signs of disintegration. They were therefore dumped in the sea. Despite this explanation, however, US Customs found that allegations of gunrunning to South Africa by SRC were in fact true.<sup>101</sup>

After the havoc caused by the dockworkers in Antigua after the SRC shipment to South Africa was revealed, as well as Nkomo's allegations, SRC decided to temporarily close the Antigua test range. South Africa was chosen to conduct further tests on ammunition and run-ups. A SRC ballistic specialist team under the leadership of Steve Adams, who had been appointed by SRC as the project engineer for the development of the 155 mm projectile as well as all the South African development actions, were sent to South Africa to install and prepare radar and high technology equipment as well as 30,000 ERFB 155 mm grenade shells at the Schmidtsdrift test range. The test range was thus upgraded to undertake the most modern ballistic tests, during which time Armscor personnel gained valuable knowledge on how to use the equipment, how to draw up the programs for testing and how to arm the inert shells by fitting them with fuses and highly explosive materials. Adams eventually resigned from SRC to join Armscor fulltime, thereby transferring knowledge of immeasurable worth. By 1979, the equipment, blueprints, assistance and contributions that Armscor gained from SRC, as well as the establishment of a Special Steel Project for the casting of high pressure

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101. D.C. Martin & J. Walcott, Smuggling arms to South Africa, *The Washington Post*, 5 August 1979, p. B2; National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978; WGBH, Arms for South Africa: the American connection, *Issue* 9(1/2), Spring/Summer 1979, p. 54; L.J. van der Westhuizen & J.H. le Roux, Armscor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, p. 59.



barrels, enabled Armscor to locally manufacture 15 production models of the G5 advanced artillery system. The first battery was ready by mid-1980.<sup>102</sup>

In the light of the above, the question that remains is: Did SRC get away with its violation of the 1963 as well as the 1977 mandatory arms embargoes? The answer is a partial no. In addition to the investigation launched by the US and the other countries involved, the press and television networks also took up the scent after Nkomo's allegations. On 6 November 1978, only a few days after the announcement of a mandatory arms embargo against South Africa, the British Broadcasting Company (BBC) alleged that special long-range shells and artillery had been shipped by way of Antigua to South Africa in 1977. On 9 November 1978, a documentary compiled from research undertaken by the BBC and the Canadian Broadcasting Corporation (CBC) was aired on the US channel WGBH (Boston). The research disclosed three shipments of highly sophisticated 155 mm artillery shells, field artillery and radar equipment to South Africa in 1977 and 1978, via Antigua and Spain. It was alleged to be a major violation of the arms embargo. At the same time, the Spanish Government started investigating the activities of Barreros Semanos, who was also implicated in another shipment of arms to South Africa that had aroused the interest of both the British press and police.<sup>103</sup>

Meanwhile, SRC's president, Dr. Gerald Bull, continually denied the charges, saying that the allegations have been investigated and refuted in a strong manner by the Government of Antigua. Furthermore, the Canadian Government had investigated the claims and found there was no substance to it. In fact, SRC never shipped shells casings to any state anywhere in the world except under export permit by the US and Canadian Governments. The vice-president of SRC in turn said he was not familiar with the remarks by the Antiguan port director, Emil Sweeney, whose records showed that

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102. L.J. van der Westhuizen & J.H. le Roux, Armscor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 60-61; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01039: **Court document:** United States of America vs. Space Research Corporation (U.S.), 25 March 1980, p. 43; W. Lowther, *Arms and the man: Dr. Gerald Bull, Iraq and the Supergun*, p. 121; M.T. Klare, Evading the embargo: Illicit U.S. arms transfers to South Africa, *Journal of International Affairs* 35(1), Spring/Summer 1981, p. 23.

103. F. Emery, Shipments of long-range shells to South Africa through Antigua alleged in BBC Panorama report, *London Times*, 6 November 1978, p. 1; WGBH, Arms for South Africa: the American connection, *Issue* 9(1/2), Spring/Summer 1979, pp. 52-54; Anonymous, South Africa arms sale checked, *The New York Times*, 8 November 1978, p. A10; Anonymous, 5 lande kyk na smokkel met wapens, *Die Vaderland*, 13 November 1978, p. 4; W. Lowther, *Arms and the man: Dr. Gerald Bull, Iraq and the Supergun*, p. 123.

the containers loaded onto the Tugelaland was filled with steel forgings, two field gun assemblies, a radar van and other equipment. According to him, all the steel forgings that SRC had sent to Antigua were either consumed in Antigua or were still in Antigua. He then suggested that the charges might have been based on incomplete, forged or otherwise false documentation, which had indeed been circulated in Antigua in 1977 after SRC had conducted field tests of its new 155 mm artillery systems, with prototype and inert shells. The reason for the distribution of these false documents, according to him, was the violent controversy within the radical left throughout the Caribbean. His experience with the Antiguan port director was that documents coming out of that office showed an extraordinary reluctance to be precise as to whether containers were in fact filled or empty. Concerning the shipment of shells to Spain, SRC said that 13,000 inert 155 mm shell casings had been shipped to that country, but whether they were used in Spain or elsewhere was beyond the control of SRC.<sup>104</sup>

The crew of the Tugelaland, who were interrogated by the German Government because the ship was registered in Hamburg, also denied the charges. The captain of the first voyage in May/June 1977, the captain and the first officer of the second voyage in August 1977 and the two second officers of the third voyage in February 1978 were specifically interrogated. They all agreed in their written depositions that at no time were they aware of any shipment of ammunition or arms on the Tugelaland to South Africa. In the ship's manifest, the cargoes had been declared as machine parts and steel forgings. The captain and first officer of the second voyage furthermore maintained that no damage occurred to a container during that trip because of a crane malfunction during which a container was dropped in the Tugelaland hold and burst open. Instead, the captain said that such an incident happened during the first voyage, but the container was only slightly damaged without laying bare its contents.<sup>105</sup>

In November 1978, the Governments of Antigua and Barbados ordered SRC to leave the islands, and in December 1978, a US federal grand jury in Rutland, Vermont, concluded that several thousand steel shells were shipped to South Africa by SRC. They said that the US Government would proceed to seek indictments against thirteen individuals and

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104. National Archives and Records Administration, Washington, D.C. Video recording: *Arms for South Africa*, BBC, CBC and WGBH/Boston television production, 9 November 1978.

105. United Nations Security Council, *Report of the Security Council Committee established by Resolution 421 (1977) concerning the question of South Africa*, 31 December 1979, Annexure IV, p. 2.

five corporations for violating the arms embargo. The US Government was also expected to charge SRC with violating US Customs and State Department regulations. In early 1979 the federal grand jury offered immunity from persecution, after which some SRC members of staff who had been involved in the South African dealings started to testify in secret. In the end, only Bull and the SRC secretary and chief operations officer, Rodgers Gregory, stood accused. However, although the federal grand jury met every three weeks, no indictments against SRC were forthcoming until early 1980. Many critics ascribed this inaction to an effort by the US Government to cover up complicity in the SRC-South African transactions by the Departments of State, Commerce, Defense and Treasury and the CIA. For example, the Florida shipping especially raised questions on the laxity of US Customs officials, who apparently never checked the validity of SRC's customs forms or cargo declarations. For this specific shipment, SRC had obtained a shipping manifest from the US Army's Aberdeen Proving Ground, which exempted SRC from normal customs reporting requirements. However, as pointed out earlier, the only contract the US Army had with SRC for testing designated White Sands, New Mexico, as the test site. Many questions were also raised on the role of the CIA in the transactions. As mentioned earlier, the first person to refer the South African Government to SRC was the retired US Air Force officer, John Frost, who had contacts with the CIA. The speculation was that SRC might have been used by the CIA to smuggle ammunition to South Africa for use against the communist-backed forces in Angola, in the light of an earlier statement by John Stockwell, the former CIA chief in Angola, that the CIA had agreed to help South Africa obtain ammunition for 155mm artillery systems.<sup>106</sup>

In early 1980, the SRC activities again elicited major publicity when yet another documentary entitled *Hot Shells* was broadcasted on US television. The documentary was well researched – it listed basically all of the SRC transfers and assistance to South Africa that have been discussed. In addition, it was further alleged that the basic application of the 155mm system that South Africa bought from SRC was nuclear, and that SRC had previously contracted with the US Government to design a nuclear warhead that would fit the 155mm gun. The yield of this shell was two to three

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106. Anonymous, 'US firm broke SA arms ban', *Rand Daily Mail* 7 December 1978, p. 4; D.C. Martin & J. Walcott, Smuggling arms to South Africa, *The Washington Post*, 5 August 1979, p. B2; M.T. Klare, The corporate gunrunners: South Africa's U.S. weapons connections, *The Nation* 229, 4 July 1979 – 8 August 1979, p. 76.

kilotons. Thus, the possibility was raised that the Vela incident in September 1979, measured at between two and three kilotons, could have been the testing of a South African nuclear artillery shell. This allegation was fiercely denied by Bull, who said that SRC had never done any research on nuclear weapons and that in any case, the small nuclear yield from a 155 mm shell would not justify the billion dollars spend on development. In early 1980, Bull and Gregory was offered a plea bargain, because in the light of the letter Bull had from the Office of Munitions Control and his insistence that the US Army and the CIA knew and approved of his dealings with South Africa, the US Government felt it did not have a solid case. The plea bargain was that if Bull, Gregory and SRC would plead guilty to some reduced charges, no SRC employees would be charged. However, if they pleaded not guilty, then everyone involved in the dealings with South Africa would be charged. On 25 March 1980, Bull and Gregory pleaded guilty to the illegal shipment of ultra-long-range artillery shell casings and other military weapons to South Africa, without receiving an export license from the Department of State's Office of Munitions Control. The company was fined and Bull and Rodgers both received prison terms of one year each in jail with six months suspended. SRC was fined \$105,000.<sup>107</sup>

Due to the outcry of how it was possible that the SRC shipments to South Africa went unnoticed, the House of Representatives Subcommittee on Africa later launched an investigation into the matter. It was found that the failure to adequately implement the arms embargo against South Africa in this case as well as in other cases were due to structural problems in the US export controls rather than accidental negligence. Although the US had a policy of embargoing arms to South Africa, government agencies had failed to adopt procedures to effectively implement the embargo. Furthermore, the Office of Munitions Control was unable to enforce arms licensing regulations because of a lack of resources. The office had only seven officers who had to handle approximately 30,000 license applications per year. In addition, there was a lack of technical experts

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107. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01016: **Telegram**: United States Mission, United Nations to Secretary of State, 14 February 1980; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 5, File 7, Presentations: **Press report** on United Nations arms embargo against the RSA, 18 March 1980; W. Lowther, **Arms and the man: Dr. Gerald Bull, Iraq and the Supergun**, pp. 116, 125-126; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01039: **Court document**: United States of America vs. Space Research Corporation (U.S.), 25 March 1980, pp. 2-61; Anonymous, Vt. Firm guilty in shipping arms to South Africa, **The Washington Post**, 26 March 1980, p. 20; Anonymous, 2 officials plead guilty to illegal arms scheme, **The New York Times**, 26 March 1980, p. 28.

who could adequately define weapons components. The US Army and the CIA's involvement in SRC case were not denied. The Army allowed the production of 155mm shells for South Africa in one of its factories. Whether they had known or not that the shells had been destined for South Africa was irrelevant because it was found that there had been an absence of control procedures about the end-use of products in the Office of Munitions Control's export regulations. Furthermore, the US Army did not export the manufactured shells to Canada through the normal means; SRC had its own private US Customs post inside the company grounds that straddled the US-Canadian border. The company therefore had misused the special privilege it enjoyed because of its connections with the US Army and the CIA. Concerning the CIA, it was found that its involvement in the SRC case was due to a preoccupation with a need to counter the communist influence in Angola. Although the CIA insisted that it did not directly or indirectly give, sell or transfer to South Africa any military equipment, nor did it encourage or facilitate others to do so, the Subcommittee found that the CIA had indeed enlisted the help of John Frost (mentioned earlier), a defense consultant. According the report, Frost, with the cooperation of a CIA official, had strongly recommended to officials of the South African arms procurement agency that SRC would be the best source for 155mm artillery weapons and ammunition sought by the South African armed forces. This, at the very least, suggested serious negligence on the part of the CIA and a possibility that certain elements of the CIA had purposefully evaded US policy.<sup>108</sup>

### 3.5.3 THIRD COUNTRY TRANSFERS: THE ISRAELI CONNECTION

Under the Carter Administration's arms embargo regulations, the US Government had to approve transfers of all US origin government, commercial and defense articles and services by recipient countries to third countries. Procedures for processing requests for such transfers varied slightly, depending on whether the item concerned was originally provided by the US Government under foreign military sales (FMS) or under the military assistance program (MAP), or commercially exported under license from the US

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108. S. Landgren, *Embargo disimplemented: South Africa's Military Industry*, p. 204; B. Magubane, United States-South Africa relations and the implications for black liberation, *The Journal of Ethnic Studies* 11(1), 1983, p. 128; R. Leonard, *South Africa at war: White power and the crises in Southern Africa*, p. 150; Anonymous, US blamed in S. Africa arms flow, *The Christian Science Monitor*, 25 March 1982, p. 1; C. Mohr, Panel links CIA to arms shipment, *The New York Times*, 25 March 1982, p. A7; M. Wines & J. Gerth, How Physicist's weapons genius led him to greed and then death, *The New York Times*, 22 April 1990, p. A1.

Department of State. The transferring country first had to request permission from the US Government to make the transfer. With regard to FMS-origin articles, Section 3 of the US Arms Export Control Act stipulated that a proposed transfer of FMS articles may not be approved unless the US itself would be willing to transfer the defense article under consideration to the intended recipient. South Africa was not legally eligible to receive such defense articles, and third-party transfers would therefore be against US policy and international obligation. Transfers of MAP-origin defense articles carried comparable standards. Though not required by law, identical standards were uniformly employed in considering the proposed transfers of defense articles and services exported commercially under license. As far as South Africa was concerned, all requests for third party transfers to South Africa would be denied.<sup>109</sup>

According to US Government Foreign Policy Controls, export controls on South Africa were maintained to distance the US from the practice of apartheid and to encourage racial justice in South Africa. However, the controls concerned direct US military exports to South Africa, and were therefore easily circumvented through a cooperation agreement between Israel and the US and Israel and South Africa. When this role of Israel as a third country is considered, the complexity of enforcing the arms embargo regulations against South Africa by the US is again highlighted. US-Israeli cooperation was reiterated in 1979 by Carter in a speech to the Israeli parliament, the Knesset. Carter reiterated that the US intended to remain politically, economically and militarily involved in the Middle East, and that the US would never support any agreement or action that placed Israel's security in jeopardy. This implied the provision of various types of military aid to Israel. Concerning Israel's links with South Africa, the extent of this relationship remains strictly classified, as mentioned in Chapter 1.<sup>110</sup>

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109. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 00942: **Telegram**: Secretary of State to United States Mission, United Nations, 22 May 1979; Armscor Archives (Pretoria): Sanctions and Arms Embargoes, Box 1, File 2, Presentations, Parliamentary questions and Statements, Document 3.2: **Note verbale** dated 23 May 1979 from the representative of the United States of America to the United Nations, 14 September 1979; Main Management, Foreign Affairs and Organization, File 1/17/1, Volume 4: **Report** of the Secretary-General on the implementation of Security Council Resolution 473 (1980), Annexure II, Replies received from States, 12 September 1980.

110. S. Dajani, Israel and South Africa: The U.S. connection, *American Arab Affairs* 24, Spring 1987, p. 92; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: **Letter** from H.A. Geldenhuys to The Secretary concerning President Carter's speech before the Knesset and the question of U.S. relations with Israel and the possible impact on South Africa, 2 April 1979.

Despite the strict classification of documents on South Africa-Israeli cooperation, it could nonetheless be established that military cooperation between the two countries was vibrant. One example is the sale of 15,000 ERFB 155-mm shells by SRC to Israel in 1975. The retired Air Force Colonel John Frost, who had been mentioned earlier in the discussion of the SRC case, placed the order for the shells on behalf of South Africa. The shells were delivered to South Africa through Israel, though at that stage without the knowledge of Bull. After a visit by Vorster to Israel in 1976, a multitude of events unfolded that indicated a military cooperation agreement between the two countries. These included the delivery to South Africa of Reshef missile boats and Dabur patrol boats fitted with Gabriel ship-to-ship missiles and night vision equipment for helicopters; cooperation in defense interests; agreements on the establishment of an electronics industry in South Africa; electronic and infra-red-border-sensing equipment and electronic border fences; the delivery of rare South African minerals in exchange for Israeli know-how; cooperation in the development of the LAVI fighter aircraft in the form of engineering, avionics and airframe blueprints and a possible spin-off to South Africa of a joint US-Israeli submarine project, to name but a few. As almost all Israeli arms contained a US-origin component, whether as actual parts or fixtures in the final product, or indirectly through the use of US technology, aid or investments, it is deemed certain that these components had found its way to South Africa as part of the cooperation agreement with Israel. Whether the transfers took place with or without the Carter Administration's complicity unfortunately also remains unclear, although Carter did make some statements from time to time condemning Israel's dealings with South Africa. The Israeli Foreign Minister once reacted angrily to Carter's criticism, saying that it was not the business of the President of the US whom Israel had for friends, as long as the latter stayed within the law. The irony is that Israel did not stay within law of the arms embargo.<sup>111</sup>

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111. F.J. Parker, *South Africa: Lost Opportunities*, p. 133; J.P. McWilliams, *Arm Scor: South Africa's arms merchant*, pp. 54-55; W. Lowther, *Arms and the man: Dr. Gerald Bull, Iraq and the Supergun*, pp. 113-114; S. Dajani, Israel and South Africa: The U.S. connection, *American Arab Affairs* 24, Spring 1987, pp. 83-90.



### **3.5.4 CLOSING THE LOOPHOLES AND SHORTCOMINGS IN THE ARMS EMBARGO REGULATIONS**

On 19 September 1980, the United Nations Arms Embargo Committee adopted fifteen recommendations in an effort to close existing loopholes and make implementation of the arms embargo more effective. The recommendations were:

- All states should undertake concrete steps to close existing loopholes in the embargo, by ensuring that arms export agreements include guarantees that would prevent embargoed items from reaching the South African military establishment and police through third countries. These guarantees should cover components of embargoed items sub-contracted by firms from one country to another.
- The export of spare parts for embargoed aircraft and other military equipment belonging to South Africa should be prohibited, as well as the maintenance and servicing of such equipment.
- All industrial licenses previously concluded with South Africa to manufacture arms and related material should be revoked or terminated.
- States should prohibit government agencies and corporations under their jurisdiction to transfer technology or use technology subject to their control in the manufacture of arms and related material of all types in South Africa.
- States should prohibit corporations under their jurisdiction from investing in the manufacture of arms and related material in South Africa.
- The export to South Africa of dual purpose or grey area items, i.e. items provided for civilian use but with the potential for diversion or conversion to military use, should be prohibited, in particular aircraft, aircraft engines, aircraft parts, electronic and telecommunications equipment, computers and supplies of 4-wheel drive vehicles destined for the military or police forces.
- The terms 'arms and related material of all types' referred to in Resolution 418 (1977) should be clearly defined to include equipment of all types for the South African military and police forces.
- All forms of nuclear cooperation with South Africa should cease, as well as the exchange of nuclear scientists with South Africa and the training of South African nuclear scientists in any country.

- All states should ensure that their national legislation or comparable policy directives guarantee that specific provisions to implement Resolution 418 (1977) include stiff penalties for violations.
- All states should include in their national legislation or comparable policy directives provisions to prohibit within their national jurisdiction the enlistment and/or the recruitment of mercenaries or any other personnel for service with South Africa's military and police forces.
- States should put an end to exchanges of military attaches as well as exchanges of visits by government personnel, experts in weapons technology and employees of arms factories under their jurisdiction to South Africa, especially if such visits and exchanges can maintain or increase the capabilities of the South African military and police.
- No state should contribute to South Africa's arms and production capabilities. The arms embargo should therefore include the import of arms and related material from South Africa.
- NATO countries should reject any arms purchase orders by South Africa submitted through the codification system used by NATO member states.
- Measures should be taken to investigate violations of the arms embargo and prevent future circumventions thereof.
- A sanctions branch should be created within the secretariat to assist the committee in carrying out its functions as outlined above.<sup>112</sup>

It is interesting to note that the above recommendations addressed all of the problems the Carter Administration encountered in its implementation of the arms embargo, as discussed thus far. However, the US accepted only ten of the recommendations, while entering reservations on recommendations 5, 6, 8, 10 and 15<sup>113</sup>. Thus, although the regulations instituted by the Carter Administration stretched quite far, the US was still not prepared to go all the way, which leads one to wonder whether there was any complicity by the Carter Administration in the non-enforcement of the arms embargo.

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112. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01093: **Cable:** United States Mission, United Nations to Secretary of State, 19 September 1980.

113. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01093: **Cable:** United States Mission, United Nations to Secretary of State, 19 September 1980.

### 3.6 ON THE EVE OF THE 1980 US PRESIDENTIAL ELECTIONS

In November 1979, seven months after the expulsion of three US military attachés for allegedly spying on South Africa's strategic installations, the South African Government received a ten-member delegation from the US House of Representatives Armed Services Committee and gave them top-level briefings and tours of military facilities. The delegation's visit was shrouded in secrecy because of political sensitivity as a result of the arms embargo, and they arrived in South Africa on a US military aircraft. However, the visit leaked to the press and questions on the reason for the visit started to be asked. On the South African side, the visit was regarded as very significant in the light of the arms embargo. On the US' side, the visit was described as a routine fact-finding trip to Africa. When asked why South Africa was visited, the Armed Services Committee Chairman said that South Africa was important to US strategic interests, and the visit was therefore arranged because of the Committee's interests in defense matters. Another member of the Committee said he was in favor of the US only restricting its arms embargo to purely offensive weapons. Furthermore, there was concern in the US that South Africa could no longer be regarded as an anti-communist ally because of remarks by South African officials on several occasions that the country will not cooperate to protect Western interests against Soviet activity in the area as a result of the arms embargo.<sup>114</sup>

The visit can be regarded as significant at the time, as the US was preparing for Presidential elections in 1980 and therefore a possibly new foreign policy that would gain votes. Although visits by non-military US officials or members of Congress were not prohibited by the arms embargo regulations, the general understanding was that no military-related contacts with South Africa were deemed favorable by the Carter Administration. Therefore, one could reasonably ask whether the visit was a sign that the US stance towards South Africa could be expected to change. On the one hand, the Carter Administration's attitude towards South Africa had that far been guided to a large extent by the US policy of reaching a better understanding with regard to Third World countries and the conviction that human rights reforms in South Africa would make it easier for the US to maintain friendly ties with the Third World countries. On the

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114. F. Kemp, Hoë Yanks in geheim in SA, *Rapport*, 18 November 1979, p. 16; C. Murphy, U.S. Congressmen tour South African military facilities, *The Washington Post*, 22 November 1979, p. A34.

other hand, crises had developed in Iran and Afghanistan, which by 1980 had become top foreign policy priorities for the US. This may have altered US thinking on South Africa, according to the South Africa Foundation, as it not only threatened the US' interests in the Middle East and Southwest-Asia and the stability and territorial integrity of the Third World and non-aligned countries, but also the global balance of power between the superpowers, i.e. the US and the Soviet Union. In this regard, the Cape sea route and the great potential of the naval base at Simonstown once again gained importance, as were underlined by the Armed Services Committee delegation.<sup>115</sup> This factor would prove to be of importance to the Reagan Administration, which succeeded the Carter Administration in January 1981.

### 3.7 CONCLUSION

After the mandatory arms embargo against South Africa was instituted in November 1977, member countries of the United Nations had to take steps to ensure that the embargo was implemented effectively. Each country had to define its own regulations according to its definition of the term 'arms and related material' of which the export to South Africa was prohibited by the embargo. The US was one of only a few countries that had laws and regulations pertaining to the trade in arms and arms technology in existence, the majority of which were described in the so-called Munitions List. These laws and regulations provided a legal basis for implementing the arms embargo, and in furtherance of the objectives of the arms embargo the term 'arms and related equipment' was defined as including all items and related technical data on the Munitions List, as well as other items with a military application not on the Munitions List, technical data and defense articles and services sold on a government-to-government basis under the US foreign military sales program.

In addition to the laws and regulations already in place, the Carter Administration tried to strengthen the arms embargo even more by announcing a ban on the export of any US-origin item or technical data to the South African military and police in February 1978. These regulations went beyond the requirements of Security Council Resolution 418 (1977) by which the mandatory arms embargo against South Africa was instituted, and therefore signified a tough line taken by the Carter Administration towards South

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115. South Africa Foundation, US Congressmen in South Africa: What's the significance? *South African Digest*, 22 February 1980, p. 7.

Africa. It is said that actions speak louder than words, and this is seemingly true as far as the Carter Administration stance towards South Africa was concerned. Carter promised stiff regulations against South Africa and acted by introducing comprehensive measures. At least this should be an indication that Carter was genuinely concerned about human rights violations in South Africa. On the other hand, comprehensive measures can be very difficult to enforce, and therefore, although the Carter Administration might have had the best intentions to enforce those measures, in practice many problems surfaced that actually disimplemented the embargo to a large extent.

Some of the problems in implementing the arms embargo could be ascribed to loopholes in the regulations, e.g. the sale of civilian aircraft that could be utilized for military purposes. On the one hand, one might argue that the Carter Administration should have foreseen that the South African Government would not hesitate to confiscate such items, in the view of statements by that Government as well as certain legislation to that effect. Therefore, such sales were not to be allowed to any South African buyer, according to many critics. On the other hand, the Carter Administration continually gave assurances that each sale was considered carefully and individually before being allowed or denied. Another problem was the Carter Administration's reluctance to end all nuclear cooperation with South Africa in fear of the latter then going on a do-it-alone path in the development of nuclear weapons. Here one can also argue that South African would in any case have continued with nuclear development, with or without US assistance, simply because of its refusal to sign the nuclear non-proliferation treaty and to allow international inspections of its nuclear facilities.

Still another problem in the implementation of the arms embargo was the illegal export of arms and technology to South Africa by US firms, of which the case of Space Research Corporation was by far the most serious. In all these cases, the offenders did not receive severe punishment; in fact, in each case that the offenders pleaded guilty, the punishment was actually very light, ranging from fines to short prison terms, even in the case of SRC. This raised many questions on how serious the Carter Administration was taking the implementation of the arms embargo. On the other hand, the research has shown that to set down regulations is one thing, but to implement and enforce it, quite another. The Carter Administration simply did not have effective machinery to implement and enforce the regulations it had set down, as a study into the handling of

the SRC case showed. The regulations were too much to handle, and in addition, the Carter Administration did not fully reckon with the South African determination to obtain whatever it needed through whatever way necessary. The South African Government was not to be bullied into submission by various outside regulations. As part of this defiance, the South African Government went into a cooperation agreement with Israel, through which it obtained many US-origin military items or technology. This placed the Carter Administration in a foreign policy dilemma: Carter had pledged the US' unequivocal support to Israel, which would be difficult to withdraw abruptly. But Israel had links with South Africa, who was under an arms embargo. This fact raised many questions on possible complicity by some officials within the Carter Administration in the transfer of military items to South Africa, by simply turning a blind eye and doing nothing constructive to block the flow of military items from Israel to South Africa.

In the light of the discussion in this chapter, the final conclusion on the Carter Administration's implementation of the arms embargo would be that although it had the best intentions of going tough on South Africa, it was simply not able to successfully implement the arms embargo regulations that it had set down, also because of the ever-present critics who were always fast to point out any shortcoming that might exist.

## CHAPTER 4

### THE REAGAN ADMINISTRATION: CONSTRUCTIVE ENGAGEMENT AND THE ARMS EMBARGO, 1981 – 1984

#### 4.1 INTRODUCTION

Ronald Reagan of the Republican Party became President of the US after the Party won the elections in late 1980. He was re-elected in 1984. As far as US policy towards South Africa in the eight years of the Reagan Administration was concerned, a clear shift in policy was distinctive in the second term. Whereas the Reagan Administration initially embarked on a less hard-line policy towards South Africa than the Carter Administration, various incidents and pressures had swung the pendulum by 1985, at which time the Reagan Administration introduced the most comprehensive punitive measures ever against a country, in this case South Africa. This was also true as far as the implementation of the arms embargo was concerned. At first, the Reagan Administration significantly relaxed certain export regulations introduced by the Carter Administration, but in the second term again imposed more strict regulations. The discussion in the next two chapters will therefore be conducted within the framework of the two terms of the Reagan Administration in order to highlight the change in policy and how it influenced the implementation of the arms embargo against South Africa.

#### 4.2 THE REAGAN ADMINISTRATION'S FRAMING OF A FOREIGN POLICY

Since the late 1970's, especially because it had to endure a hard-line policy from the Carter Administration, South Africa embarked on a strong bid for Western support by emphasizing the importance of its vast strategic mineral resources. This was coupled by declarations by the South African Government that the country was under siege by international communism and that the communist takeovers in Angola, Mozambique and Ethiopia were forerunners of a planned takeover of South Africa. The South African Government warned that a communist success in South Africa would deny vitally needed strategic minerals to the Western world, resulting in a situation of stark economic, political and military significance. Thus, in the wake of the 1980 US elections, the South African Government was working in the direction of possibly using



the Reagan years to its advantage by making South Africa's energy resources indispensable to the West; hammering loud and long upon the strategic importance of South Africa in military terms and with regard to raw materials that were essential for military and industrial uses; offering the country's contribution as a fighter of Soviet expansionism; and encouraging the new US Government to chase the communists out of Africa.<sup>1</sup>

The South African plea seemed to have gained the ear of the Reagan camp even in the advent to the 1980 elections. Countering the spread of communism played an important role in the foreign policy reasoning of the Reagan camp. As far as South Africa's role in this was concerned, Joseph Churba, one of Reagan's national security advisors in the advent to the elections, stated that if Reagan was elected, South Africa should become the US' chief fighting ally against communism on the African continent. Churba took care to say that he was not speaking directly for Reagan, although he then immediately added that he would urge Reagan to end the arms embargo against South Africa, set up a Navy presence at the South African Simonstown naval base and help the South African armed forces to strengthen themselves in aspects relating to the security of the Cape sea route. In additions to Churba's comments, several high administration officials and congressional conservatives suggested that the US should cooperate with South Africa in the military field, in order to help build its strength against communist governments in Africa, who have called for the extinction of white South Africa. The mentioned officials furthermore said that South Africa, as a major supplier of strategic minerals to the US and the guardian of the strategic sea-lanes around the Cape, was a vital ally of the US and a bulwark against communist aggression. These comments were early indications that the Reagan Administration might approach South Africa in a different manner than the Carter Administration. Indeed, shortly after his election, Reagan told reporters that his Administration would put less emphasis on human rights and more emphasis on countering the spread of communism. This indicated the lack of a strong concern about racial issues in the Reagan Administration, unlike the Carter Administration and especially Andrew Young. To the South African Government, these words were music after it had to endure 'harsh treatment' from the Carter Administration for four years. However, for the anti-apartheid movement in the US,

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1. H.D. Nelson, South Africa: Introduction in *Countries of the World*, 1991, p. 6; R.K. Massey, *Loosing the bonds*, p. 487; G. Thatcher, South Africa, how vital to the West? *The Christian Science Monitor*, 16 December 1980, p. 12; Anonymous, Drifting into an African policy, *The New York Times*, 22 March 1981, p. D18.

Reagan's words shattered any hope of immediate further action against South Africa. It was clear that strategic considerations rather than human rights would be the focus of the Reagan Administration.<sup>2</sup>

A historian named Chester Crocker would play a significant role in the Reagan Administration's policy toward Southern Africa. He was appointed Assistant Secretary of State for African Affairs in the Reagan Administration, and was the brain behind the policy of constructive engagement that the Reagan Administration would pursue in its foreign policy towards South Africa. According to Rich<sup>3</sup>, the underlying assumptions behind the policy of constructive engagement stemmed from a conference report sponsored by the Office of the Assistant Secretary of Defense in April 1979. Crocker was one of the panelists of the conference. At the time, he was employed in the Center for Strategic and International Studies at Georgetown University. The conference regarded Africa as a focal point for a more globally-based Soviet-Cuban communist alliance, which could not be addressed by a US policy that was merely responsive to Soviet and Cuban attempts at political destabilization in Africa. Instead, the conference urged, US policy had to recognize Africa's need for stronger, more durable and less easily politicized institutions. A wider role for US policy that necessitated greater US presence to back its policies was stressed, unlike the more simplistic analysis of the Nixon Administration's NSSM 39 and its reliance on white rule in Southern Africa.<sup>4</sup>

In 1980, Crocker published his thoughts on constructive engagement in an article in the *Foreign Affairs* journal. When Crocker's thoughts are studied, it appears that constructive engagement in essence represented a continuation of the traditional middle course in US policy towards South Africa. According to Crocker, South African Prime Minister P.W. Botha and his cabinet were cautious reformers with a set of pragmatic, flexible and determined attitudes in the face of the apparent disintegration of apartheid. Therefore, the task of the US was to steer between the dangers of abetting violence in

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2. R.K. Massey, *Loosing the bonds*, p. 479; J.F. Burns, Aide to Reagan, in South Africa, says arms embargo should end, *The New York Times*, 13 June 1980, p. 14; Anonymous, SA will be US ally – security adviser, *To the Point*, 20 June 1980, p. 11; G. Thatcher, South Africa, how vital to the West? *The Christian Science Monitor*, 16 December 1980, p. 12; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01133: *Newspaper clipping* from The Washington Star, 15 March 1981.
  3. P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies*, 14, p. 188.
  4. P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies*, 14, p. 188.

South Africa and aligning the US with the apartheid cause of the white South African Government. Thus, change in South Africa was both likely and necessary, provided that it was consistent with a non-racial order and the hope that the structures of forced racial segregation would be removed, that free labor mobility for non-white South Africans was established and Black citizenship rights restored. Crocker argued that the basic objective of the US should therefore be to support change within the framework of recognizing the need to minimize the damage to US interests while also recognizing that US interests would suffer invariably if such change did not occur.<sup>5</sup>

Crocker stressed that economic pressures to encourage change would not be effective, given the fact that South Africa by its nature and history was an integral part of the Western economic system. Instead, the US should support the process of change through the policy of constructive engagement, which would position the US as a broker between the different parties in Southern Africa. Crocker stressed the importance of the US acting as a superpower to compete with the Soviet Union in the politics of Southern Africa, which Crocker viewed as a changing region whose future depended on those who participated in shaping it. But Crocker did not fully deny the role that pressure could play in a policy of constructive engagement. Rather, he was of the opinion that pressure in both the public and diplomatic channels could encourage change, while also communicating to various audiences the US' recognition of the unacceptability of the South African policy of apartheid and dissociating the US from the official behavior of the South African Government. On the other hand, Crocker also reasoned that the option of punishment in the context of mandatory United Nations sanctions carried a heavy price tag, since such measures were irreversible and tended to erode rather than strengthen future influence and flexibility.<sup>6</sup> In 1985, Crocker's views would be challenged by the pressure to introduce punitive economic measures against South Africa, as will be discussed later in this chapter.

In the light of the above-mentioned discussion, it was clear that the Reagan Administration's primary foreign policy objective was to emerge victoriously from the

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5. P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies*, 14, p. 188; C. Crocker, South Africa: Strategy for change, *Foreign Affairs*, Winter 1980/81, pp. 323-351.
  6. R.K. Massey, *Loosing the bonds*, pp. 483-484; C. Crocker, South Africa: Strategy for change, *Foreign Affairs*, Winter 1980/81, pp. 323-351; J. Lelyveld, Reagan and Southern Africa, *The New York Times*, 16 February 1981, p. A1; P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies* 14, p. 188.

Cold War struggle with the Soviet Union. This could also be gathered from the Administration's stated foreign policy objectives for Africa, i.e. *"America seeks to promote peace and regional security in Africa, and to deny opportunities to all those who sought contrary objectives; we will support **proven friends** [emphasis added] and be known as a reliable partner in Africa and elsewhere; we support open market opportunities, access to key resources and expanding African and American economies; the US actively supports regional security and peaceful solutions in the problems of Southern Africa; ... the US will do its share in meeting Africa's humanitarian needs and in supporting basic human liberties, in keeping with both American principles and American interests."*<sup>7</sup> Concerning the objective of supporting proven friends, it was clear from a press interview with Reagan on 3 March 1981 that South Africa was regarded as such a friend. Reagan said that while the US should not drop all its concerns about human rights in South Africa, it had to be remembered that South Africa had always been an important ally in the international battle against communism. It was a strategically essential country to the free world and had stood beside the US in every war. In addition, Reagan said, people should recognize that many black and white South Africans were trying really hard to bring an end to apartheid. Their efforts and gains should be recognized, and as long as a sincere and honest effort was being made, the US should try to be helpful.<sup>8</sup>

Before the Reagan Administration's implementation of the arms embargo can be discussed, it is important to clarify the renewed emphasis on the strategic position of South Africa. As could be seen in the previous chapter, the strategic position of South Africa played no role whatsoever in the Carter Administration's foreign policy. The emphasis was on human rights and South Africa with its apartheid policy became a pariah among nations. Now that the Reagan Administration had turned the tide, one cannot help but wonder why the strategic importance of South Africa suddenly surfaced again. Part of the question was already answered earlier in this section, i.e. the spread of communism. In addition to communism, however, there were other world crises like the Iran-Iraq war and the Soviet invasion of Afghanistan, which threatened the Western

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7. As quoted in South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01315: **Address** by C.A. Crocker before the Foreign Relations and National Security Committee of the American Legion, Honolulu, 29 August 1981.

8. W. Cronkite, President Reagan's interview with Walter Cronkite (Excerpts) on 3 March 1981, **Department of State Bulletin**, April 1981, p. 11; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01133: **Newspaper clipping** from The Washington Star, 15 March 1981.

oil lifeline from the Middle East and made the West newly sensitized to the need to protect this oil lifeline. It is at this point that the importance of South Africa's location at the most southern point of Africa once again surfaced. It was calculated that almost 90% of the Middle Eastern oil was being shipped to the West via the sea route around South Africa. Some argued that the ocean between South Africa and Antarctica was 6,000 nautical miles wide and therefore no ship ever had to come close to the South African coast. Others in turn pointed out that much of this ocean was filled with icy stretches and therefore very hostile. Consequently, ship traffic was funneled to within 500 nautical miles of the South African coast. Still, some argued, the oil lifeline was very long and there were a number of other African ports along the line that could be equally important. This raised another possible aspect of importance: communications and port facilities. South Africa was a central point on the oil lifeline, and using it as a base would allow Western ships to maintain a presence in vast stretches of the Indian Ocean. This aspect was especially important when it is taken into consideration that since the late 1960's, Soviet naval presence in the Indian and South Atlantic oceans had been growing steadily. In fact, the Soviet Navy was accused of instigating military action in Angola and Mozambique, after it became known in early 1981 that a Soviet naval task force was docked in several Mozambique ports as a gesture of support to guerillas after South African commando's raided guerrilla camps across the Mozambique border on 30 January 1981.<sup>9</sup>

The above considerations seemed to be of importance to the Reagan Administration in the view of its foreign policy objective to counter the spread of communism. There was only one big problem that could not suddenly be ignored: the 1977 mandatory arms embargo against South Africa. Because of the embargo, South Africa was kept from offering any military assistance to the West. One example was the naval base at Simonstown, which, after a multimillion Rand revamp, could accommodate up to fifty naval ships. It was arguably one of the best military port facilities in Africa, but no US Navy ship had called there in more than a decade as a result of the apartheid policy of the South African Government and the arms embargo. Concerning the South African Navy, any aid from the US in upgrading it would be regarded as a violation of the arms embargo. Even supplying South Africa with maritime surveillance aircraft to improve its

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9. G. Thatcher, Safeguarding the oil lifeline around the Cape, *The Christian Science Monitor*, 17 December 1980, p. 12; B. Wiedrich, South African issues a warning, *Chicago Tribune*, 5 March 1981, Section III, p. 4.

antisubmarine warfare capability would be regarded as a violation of the arms embargo regulations instituted by the Carter Administration.<sup>10</sup>

In December 1980, a mysterious flash near the Cape Coast was detected by an early warning satellite, just like the Vela incident in 1979<sup>11</sup>. Reagan chose not to respond to the incident. A few months later, only after US intelligence officials indicated that they believed the flash was a nuclear test, the US Department of Defense quickly responded by saying that the flash did not originate from an explosion, but had emanated from a heat source of intense but brief duration, like a meteor. Unlike the Vela incident, no corroborating evidence was found to link the flash with a nuclear event, and the Department of Defense also did not release the identity of the satellite that made the observation. A government official stated that there was no disagreement about the source of the flash in expert circles. The lack of response from Reagan led to some severe criticism from US anti-apartheid bodies. They felt that South Africa had presented the Reagan Administration with its first test of loyalty, which the latter passed by ignoring the event and acting swiftly to stop any speculation.<sup>12</sup>

Despite the obstacles that the arms embargo posed to Reagan, his press interview on 3 March 1981 indicated a positive shift towards South Africa. Botha and other South African leaders praised his remarks as evidence that the US was taking a more realistic approach to South Africa. In fact, it was felt that the line set by Reagan reversed the US policy of the previous two decades. It was even friendlier than the Nixon Administration's NSSM 39 and virtually the opposite of the policy adopted by the Carter Administration. Needless to say, anti-apartheid activists stood worried that the fear of communism might blacken the eye of the US to the oppression of the South African black majority. Furthermore, as far as the African countries were concerned, Reagan's remarks on South Africa were viewed as a pledge not to abandon that country despite the human rights violations occurring there. It was widely anticipated that Reagan would relax the arms embargo as a sign of goodwill to South Africa. Consequently,

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10. G. Thatcher, Safeguarding the oil lifeline around the Cape, *The Christian Science Monitor*, 17 December 1980, p. 12.

11. See Chapter 3, pp. 142-145.

12. R. Walters, The United States and South Africa: Nuclear collaboration under the Reagan Administration, *TransAfrica Forum*, Fall 1983, p. 17.

many African states were alienated from the US early on in the Reagan Administration.<sup>13</sup>

#### 4.3 THE SOUTH AFRICAN RESPONSE TO CONSTRUCTIVE ENGAGEMENT

The South African Government was quick to act on Reagan's apparent goodwill. Two weeks after Reagan's press interview, five South African top military officers showed up in the US on tourist visas to explore changes in the Reagan Administration's policies. This was in direct violation of the arms embargo, which banned South African military officers from visiting the US on official business, except those attached to the South African Embassy. The group succeeded in meeting with a private group called the American Security Council as well as with some members of the US Congress before their identity became known to the Department of State. A member of the group also paid a visit to an official at the Defense Intelligence Agency at the Pentagon (the US Defense Headquarters) and to a staff officer at the National Security Council. An appointment was made to meet with a senior State Department official, but when the group showed up for the meeting, one of the members, Commander Willem du Plessis, was recognized as being one of the two attachés that were expelled from the US two years earlier in retaliation for the expulsion of three US military personnel from South Africa on espionage accusations.<sup>14</sup> It was also established that one of the members of the group was the South African chief of military intelligence, Lieutenant-General P.W. van der Westhuizen. The group was quickly escorted from the building where the meeting was to take place.<sup>15</sup>

The Department of State stood aghast after learning the identity of the five South Africans, and an investigation into how they managed to obtain a visa for visiting the US was launched. In the light of the fact that no South African military officer was allowed to visit the US under the arms embargo, the incident was quite embarrassing to

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13. J. Lelyveld, Reagan's views on South Africa praised by Botha, *The New York Times*, 5 March 1981, p. A15; B. Raspberry, Fear of red may blacken our eye, *Chicago Tribune*, 5 March 1981, Section III, p. 4; T. Gilroy, Black Africa criticizes Reagan stand on South Africa, *The Christian Science Monitor*, 13 March 1981, p. 1.
  14. See Chapter 3, p. 140, first paragraph.
  15. R.E. Bissell, *South Africa and the United States: The erosion of an influence relationship*, p. 66; D. Oberdorfer, The mysterious visit of South Africans: State Department guarded on reasons why intelligence officers came here, *The Washington Post*, 15 March 1981, p. A13; B. Gwertzman, U.S. challenges visit by top military men from South Africa, *The New York Times*, 15 March 1981, p. 1; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01133: *Newspaper clipping* from The Washington Star, 15 March 1981.



the Reagan Administration. The investigation found that in February 1981, the American Security Council notified the Department of State of its intention to invite Lieutenant-General Van der Westhuizen and two other high-ranking officials to the US for an internal briefing and seminar on the situation in South Africa. The Department of State however indicated that visits to the US by high-ranking South African military officers were generally not permitted, due to a long-standing policy of the US in this regard. Nevertheless, the Department of State also noted that the policy toward South Africa was under review. Therefore, they invited the American Security Council to present an expression of its views on the matter of future visits by high-ranking South African officials. On 7 March 1981, the Department of State received another letter in which the American Security Council requested a formal decision representing the Reagan Administration's policy on this question. In the meantime, however, the US Embassy in Pretoria, South Africa, had already received visa applications from the prospective visitors, describing themselves as South African foreign affairs officials. The visa applications were approved on these grounds. The State Department later described these circumstances as just short of fraudulent, but the South African Ambassador in the US, Donald Sole, insisted that there was no attempt to mislead the US authorities. He admitted that the South African Department of Foreign Affairs did not disclose the nature of the duties performed by the gentlemen in question in a formal note to the US Embassy, but that was due to a mistake on the part of the South African Department of Foreign Affairs. Only four members of the group were military officers. The fifth person traveled with the group to the US on routine business for the South African Embassy. In the letters from the SADF to the Department of Foreign Affairs, the ranks of the individuals were indeed stated. Because the fifth person's request for a visa was sent to the US Embassy along with the four officers', the Department of Foreign Affairs inadvertently omitted the officers' ranks from the visa requests sent to the Embassy.<sup>16</sup>

After the group's military ranks were discovered, they were asked to immediately leave the US. In the light of Reagan's press interview in early March 1981, as discussed earlier, the visit raised many questions on a pro-South African tilt by the Reagan Administration, e.g. why the US Embassy in Pretoria granted the visas and under whose

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16. W. Raspberry, South Africa tilt, *The Washington Post*, 27 March 1981, p. A17; Anonymous, S. African officers in U.S. illegally, *Chicago Tribune*, 15 March 1981, p. 20; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01374: **Hearing** on Enforcement of the United States arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 30 March 1982, pp. 34-35.

instructions; and whether the whole episode reflected a conflict within the Reagan Administration as future US policy toward South Africa was being worked out. The outcry became particularly severe after it was learned that Jeane Kirkpatrick, the US Ambassador to the United Nations, had also met with Lieutenant-General Van der Westhuizen and three of his colleagues on 15 March 1981. The disclosure led to an outcry because it contradicted earlier statements by the Department of State that no members of the visiting South African military delegation had met with any US policy-level officials and that the Department had not known in advance of the South Africans' identity. Also, the meeting took place a day after Sole assured the Department of State that the group would be leaving on the evening of 14 March. But the Reagan Administration insisted that while an overall policy review for Southern Africa was underway, there had been no change in the regulations barring any military sales or cooperation with South Africa, including visits by South African military officials to the US. Furthermore, Kirkpatrick did not have full knowledge of Van der Westhuizen's position in the South African Government, as the meeting was arranged by third parties who told her that the people she was to meet were knowledgeable on the South African question. Kirkpatrick herself defended her meeting with the South Africans by saying that it was simply a routine application of her general policy of seeing lots of different kinds of people and listening to the opinions of lots of different kinds of people.<sup>17</sup>

In addition to sending the military and intelligence officials to the US, the South African Government also requested some specific concessions, e.g. an increase in the number of South African military attachés in the US and training for the South African coast guard. These requests were also in direct violation of the US' support of the mandatory arms embargo. This, along with Kirkpatrick and the Reagan Administration's explanation of the military visit, did not bide well with the Congressional Black Caucus, African states and even the Soviet Union. The Congressional Black Caucus accused Reagan of being too friendly with South Africa and called for the dismissal of Kirkpatrick, saying that they found it extremely hard to believe that a person of her position and responsibility to represent the interests of the US did not know the identity of the

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17. W. Raspberry, South Africa tilt, *The Washington Post*, 27 March 1981, p. A17; Anonymous, Standing firm on South Africa, *The Christian Science Monitor*, 16 March 1981, p. 1; Anonymous, U.S. says Mrs. Kirkpatrick met South Africa army intelligence chief, *The New York Times*, 24 March 1981, p. 6; B. Gwertzman, U.S. challenges visit by top military men from South Africa, *The New York Times*, 14 March 1981, p. 1; F.X. Clines, White House says Mrs. Kirkpatrick didn't know South African's role, *The New York Times*, 25 March 1981, p. A4; Anonymous, Black legislators urge dismissal of Mrs. Kirkpatrick, *The New York Times*, 27 March 1981, p. 8.

person she was meeting. They emphasized that the visit by the South Africans was an utter violation of the arms embargo and that it could be viewed by the African countries as being a worrying change in the foreign policy of the US. In the United Nations, diplomats from various African countries said that the meeting was indicative of a disturbing change in US policy toward South Africa. The Soviet Union was quick to call the South African group a military delegation, whose visit was the direct outcome of press reports that alleged that the Reagan Administration had warned Congress about the intention to propose a lifting of the ban on US aid to UNITA and South African troops in Angola.<sup>18</sup>

However, not everyone was against a friendlier US policy toward South Africa. Support for Reagan came from various quarters in the US: those who honestly thought that the white minority government in South Africa would more readily adopt fairer policies toward the black majority if subjected to friendly persuasion rather than international hectoring; those in especially the military who were sensitive to the strategic importance of South Africa in the struggle with the Soviet Union; multinational companies eager for business opportunities; and certain members of the US Congress, e.g. Senators Helms, Byrd and Tharmond. Indeed, in May 1981, after a visit to the US, South African Minister of Foreign Affairs Pik Botha described his reception in the US as extremely friendly and useful. He said that although the Reagan Administration made it clear that there was little likelihood of lifting the arms embargo against South Africa or using South African ports for official naval visits, as well as a disapproval of apartheid, he had noticed a major difference between the Carter Administration's prescription of one man, one vote and the new Reagan approach, which recognized and supported orderly and evolutionary change. According to Botha, the new Reagan approach also included a full appreciation for South Africa's unique dilemma and its efforts to solve the country's internal as well as regional problems.<sup>19</sup>

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18. D.F. McHenry, Southern Africa policy, *The New York Times*, 10 July 1981, p. A23; Anonymous, Black legislators urge dismissal of Mrs. Kirkpatrick, *The New York Times*, 27 March 1981, p. A8; Anonymous, S.A. militêre in VSA: Kirkpatrick nie van vyf se status 'bewus', *Die Burger*, 27 March 1981, p. 15; Anonymous, Change in policy seen at U.N., *The New York Times*, 25 March 1981, p. 4; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01137: **Tass Press report:** U.S. visit by South African military delegation, 16 March 1981.
  19. G. Godsell, Reagan African policy: Sharp turn ahead, or only slight fork right? *The Christian Science Monitor*, 16 March 1981, pp. 1-2; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01281, **Telegram:** United States Embassy, Pretoria to Secretary of State, 18 May 1981.

#### 4.4 RELAXATION OF THE ARMS EMBARGO REGULATIONS

When the Reagan Administration took office at the beginning of 1981, US export restrictions with regard to South Africa broadly fell under three separate regulatory regimes: first, regulations administered by the Department of State under the Arms Export Control Act (AECA) and the International Traffic in Arms Regulation (ITAR); secondly, those regulations administered by the Department of Commerce pursuant to the Export Administration Act (EAA) of 1979, the Nuclear Non-proliferation Act (NNPA) of 1978 and the Export Administration Regulations; and thirdly, those regulations administered by the Nuclear Regulatory Commission (NRC) and the Department of Energy under the NNPA and regulations promulgated thereunder. As far as the arms embargo was concerned, the US had implemented the embargo primarily through control of items on the US Munitions List. Under the provisions of the AECA of 1976 and the ITAR promulgated pursuant to the AECA, no item on the Munitions List might be exported without a license issued by the Department of State. The ITAR also required a license from the Department of State for the export of technical data that could be useful in the production of Munitions List items as well as approval by the Department of State for manufacturing license agreements and technical assistance agreements relating to items on the Munitions List. In addition, a special section in the Export Administration Regulations stipulated that an embargo was in effect on the export or re-export to South Africa and Namibia of arms, munitions, military equipment and materials and machinery for use in the manufacture and maintenance of such equipment. Non-military commodities on the Commodity Control List to which the embargo applied were listed in a supplement. These were commodities that were military-related or capable of military use, e.g. machinery for the manufacture of arms and military equipment, military construction equipment designed for airborne transport, certain vehicles designed for military purposes, ammunition components, non-military shotguns and shotgun shells.<sup>20</sup>

From 20 to 27 May 1981, the United Nations Center Against Apartheid held an International Conference on Sanctions Against South Africa in Paris. Just before the Conference, the Committee published a report that stated that twenty-two companies in

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20. P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, pp. 27-28.

the US, amongst others in other countries, had contributed significantly to the maintenance of apartheid. The report led to some heated discussions during the Conference, in the absence of a representative from the US. The Reagan Administration had decided not to send a representative to the Conference. In its final conclusion, the Conference emphasized that the United Nations attached utmost importance to the effective implementation and reinforcement of the arms embargo, which it felt had not succeeded in reducing the danger of aggression and repression by the South African Government. South Africa's military capacity was ascribed to cooperation with Western nations like the US and transnational corporations. Thus, although the US had implemented more far-reaching regulations for the implementation of the arms embargo than any other country or even the United Nations, as could be gathered from the discussion thus far, it was reprimanded. The Conference called upon all states to implement effective legislation or issue appropriate policy directives on the arms embargo to cover all forms of military collaboration, direct or indirect, transfers through third parties, involvement in the arms production within South Africa, and including an end-user clause designed to monitor and enforce the embargo scrupulously. The immediate cessation of all nuclear collaboration was also called for.<sup>21</sup> Ironically, the majority of these measures had already been implemented by the US, so while reprimanding the US on the one hand, on the other hand the United Nations promoted its regulations!

As mentioned before, after Reagan's press interview in early March 1981, there was widespread concern that his Administration would relax the arms embargo as a gesture of support to South Africa. This concern was not in vain. Initially, in February 1981, the Reagan Administration renewed all the existing embargoes and licensing prescriptions that applied to South Africa. The only change in the regulations was the extension of the licensing requirements for computer exports to South African Government consignees to cover all computers and computer-related equipment. However, by mid-1981 the picture changed somewhat when the Reagan Administration honored some mentioned South African requests, i.e. it agreed to the establishment of more South

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21. Anonymous, VVO kern weer oor SA bande, *Beeld*, 16 May 1981, p. 7; Armscor Archives (Pretoria): Sanctions and Arms Embargoes, Box 6, File 11, Study material: *Report* on the arms embargo by the Institute for Strategic Studies, University of Pretoria, 15 October 1986; Departmental Committees, Commissions and Statutory Bodies, State Security, Coordinating Economic Committee, File 1/15/2/3/2, Volume 9: *Declaration* of the United Nations International Committee on Sanctions against South Africa, May 1981; United Nations Center against Apartheid, *Main documents* of an International Conference on Sanctions against South Africa held on 20-27 May 1981.

African honorary consulates in the US, renewed the exchange of military attachés between the US and South Africa, and granted authorization for the training of the South African Coast Guard. In addition, in July 1981 the Reagan Administration adjusted the arms embargo regulations to allow the export of medical supplies for humanitarian purposes and airport safety equipment to help combat air piracy, to South Africa.<sup>22</sup>

This step elicited immediate reaction. For example, the US Foreign Policy Association wanted to know whether the Reagan Administration's policy of "*cuddling up*"<sup>23</sup> with South Africa could achieve the previously declared objective of reducing communist influence in Angola. In answer, the Department of State emphasized that the US was in a process of seeking and finding some means to offer a hopeful formula to the situation in Southern Africa. The changes in the arms embargo regulations did not in any way detract from the overall effect of the 1978 regulations that banned the export of materials that could be used by the South African military or police to enforce apartheid. However, it was felt that the 1978 regulations were so wide that it covered items that could have been exported to South Africa without contravening US policy on the issue. According to the Department of State, the new regulations enabled the US to examine export applications on a case-by-case basis, with the Department of State advising the Department of Commerce on whether a license should be granted or not for a particular commodity or piece of equipment. The recommendations would take into account such factors as to whether the commodity would serve humanitarian purposes or whether it would be used to enforce apartheid. Concerning equipment to help combat air piracy, it was felt that equipment useful in the efforts to prevent acts of unlawful interference

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22. Armscor Archives (Pretoria), Main Management, Foreign Relations and Organization, Embargo, File 1/17/1, Volume 5: **Letter** from Director-General Industries, Commerce and Tourism to Chief of the South African Defence Force, 6 February 1981; D. Southerland, US tilt to South Africa costly; gains unknown, **The Christian Science Monitor**, 2 September 1981, p. 1; Anonymous, Reagan adjusts embargo provisos, **The Star**, 7 July 1981, p. 7; Armscor Archives (Pretoria), Main Management, Foreign Relations and Organization, Embargo, File 1/17/1, Volume 4: **Testimony** by the American Friends Service Committee for Hearings on U.S. controls on exports to South Africa, 9 February 1982.
23. As quoted in Department of State, Question-and-Answer Session following Foreign Policy Association Address on 14 July 1981, **Department of State Bulletin**, September 1981, p. 32.

with international civil aviation were unnecessarily banned from export to South Africa.<sup>24</sup>

Under the new regulations, the Reagan Administration agreed to the export of sophisticated equipment for a military hospital in South Africa as well as up-to-date airport X-ray scanning equipment. Thus, by the end of 1981, it was widely speculated that the Reagan Administration would soon relax even more restrictions on the provision of certain military equipment. The reason was a broad-based review by the Reagan Administration of existing foreign policy controls to determine if they were effectively promoting the foreign policy of the US. Pursuant to the US Export Administration Act of 1979, export controls imposed by the US President for foreign policy purposes, including the arms embargo regulations, expired on 31 December of each year. The controls were to be reviewed annually, unless extended by the Secretary of Commerce, under the authority of the US President, with notification to the Congress. The review also aimed to determine whether US business was being unfairly disadvantaged by some of the controls. The Department of Commerce requested public comment on foreign policy controls and on 31 December 1981, the Congress was notified by the Department of Commerce that all export controls maintained for foreign policy purposes were extended until the end of February 1982 as a result of the review.<sup>25</sup>

The review, along with the early statements and moves by the Reagan Administration spurred South African hopes. According to an editorial in the South African newspaper *Die Vaderland*, the outcome of the review was of utmost importance for both South Africa and the US, as it was intertwined with efforts to stop Soviet expansionism in Southern Africa. The editor was of the opinion that South Africa played a key role as the only outspoken anti-communist country in Southern Africa. In the US, the invitation for public comment and recommendations led the American Maritime Officers Service to urge the Department of Commerce to allow the embargo on the export of equipment for

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24. Department of State, Question-and-Answer Session following Foreign Policy Association Address on 14 July 1981, *Department of State Bulletin*, September 1981, p. 32; Anonymous, Misconceptions about U.S. policy toward South Africa, *Department of State Bulletin*, September 1986, p. 12; D. Nicol, United States foreign policy in Southern Africa: Third-world perspectives, *The Journal of Modern African Studies* 21(4), December 1983, p. 595.

25. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Prepared statement* of Bo Denysyk, Deputy Assistant Secretary of Commerce for Export Administration, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982, pp. 5-6; *Newsletter* of the Machinery and Allied Products Institute, on International operations, 9 March 1982, pp. 5-6.



maritime research and rescue operations to South Africa to expire. According to the service, the South African Maritime Patrol had assisted in many shipping accidents in the past by providing humanitarian rescue operations in the shipping lines around the country. For example, in December 1977 two supertankers owned by merchants in the US collided in waters of the South African coast. Prompt rescue operations by air-sea rescue units of the South African Air Force Maritime Patrol Division, although with old equipment, brought the sailors safely to shore and succeeded in saving the tankers. In the light of this, the American Maritime Officers Service felt that the blanket embargo on exports to the South African military, even those elements that supported search and rescue operations at sea, did not serve the important US interest of the safety of its merchant seamen and vessels. Indeed, they felt that allowing the embargo to expire would in no way mean the slightest support for apartheid. The Reagan Administration could still disassociate itself from the policy of apartheid through means that were less damaging and impractical than the present inflexible arms embargo.<sup>26</sup>

The US Machinery and Allied Products Institute also supported the relaxation of export regulations with regard to South Africa. They felt that although South Africa posed no threat to US vital interests and was not supportive of any potential adversaries of the US, in certain aspects the restrictions on trade with South Africa were more onerous than those on trade with most of the communist countries. They were of the opinion that the unilateral embargo against the South African and Namibian military and police services should be withdrawn, as the validated license requirement for exports controlled for US national security reasons to all destinations would be adequate to protect US interests.<sup>27</sup>

In Africa, possible relaxations of the arms embargo regulations produced a chorus of protest<sup>28</sup>, and in the US, the Subcommittees on International Economic Policy and Trade and Foreign Affairs in the House of Representatives held a Hearing on US export controls for foreign policy purposes, particularly those directed toward South Africa. In a letter to the Department of State dated 29 January 1982, the Subcommittees requested a number of replies. First, a review of the existing US foreign policy restrictions on

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26. Anonymous, Wapens vir Suid-Afrika, *Die Vaderland*, 18 December 1981, p. 14; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5: **Letter** from American Maritime Officers Service to Secretary of Commerce, 12 February 1982.

27. Anonymous, MAPI statement to Department of Commerce re Foreign Policy Controls, *Machinery and Allied Products Institute Bulletin*, 9 March 1982, p. 8.

28. Anonymous, Wapens vir Suid-Afrika, *Die Vaderland*, 18 December 1981, p. 14.

exports to South Africa and a comparison thereof with the restrictions called for by the United Nations, was requested. In answer, the Department of State stipulated that the Reagan Administration's arms embargo restrictions went beyond the United Nations arms embargo and were as follows:

- All licenses for items controlled pursuant to the United Nations arms embargo of South Africa were denied;
- Licenses for aircraft and helicopters were generally considered favorably on a case-by-case basis if assurances have been obtained against military, paramilitary or police use;
- Licenses for all items for military and police entities were denied, except on a case-by-case basis for medicines, medical supplies and medical equipment to any end user and for equipment to be used in the prevention of acts of unlawful interference with international civil aviation;
- Licenses for computers for government consignees were generally considered on a case-by-case basis for computers that would not be used to support the policy of apartheid;
- Licenses for crime control and detection instructions and equipment were denied except on a case-by-case basis, for dual-use items for other than law enforcement applications;
- Concerning items of significance for nuclear explosive purposes, the stated end-use, sensitivity, availability elsewhere, assurances or guarantees and South Africa's non-adherence to the Nuclear Non-Proliferation Treaty were taken into account in all licensing applications.<sup>29</sup>

Secondly, the Subcommittees requested an assessment of the effectiveness of existing export regulations applicable to South Africa. In answer, the Department of State said that the US export regulations were established in order to strengthen the United Nations arms embargo, to distance the US from the practice of apartheid, and to promote racial justice in Southern Africa. The regulations were also furthering the objectives of strengthening the arms embargo and distancing the US from the practice of apartheid, while being at the same time a factor that the South African Government

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29. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Comments* by William A. Root, Director: Office of East-West Trade, Department of State, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982.

must weigh in considering issues related to racial justice. In this regard, the regulations were consistent with longstanding US commitment to the improvement of internationally recognized human rights, particularly with regard to the apartheid policies of the South African Government. The Department of State was of the opinion that the arms embargo was generally effective because of scrupulous adherence by the US, thereby establishing a standard that was recognized by other major trading countries. Furthermore, as only a few other nations had imposed regulations that went beyond the United Nations arms embargo, the US had earned the respect of especially the African states for its forthright moral stand on the issue, which in turn has furthered general US foreign policy objectives.<sup>30</sup>

In the light of an upcoming renewal of export controls in 1982 as required by the Export Administration Act, the Subcommittees wanted a description of the major options that were considered. The Department of State in reply emphasized that the US would continue to comply with the United Nations arms embargo: *"I can state categorically that the Department of State does not approve the commercial export of any defense articles or services covered by the USML [Munitions List] to South Africa for use by military, security, or police forces"*<sup>31</sup>. Crime control equipment and nuclear non-proliferation regulations would continue pursuant to the Export Administration Act of 1979 and the Nuclear Non-Proliferation Act of 1978, respectively. Concerning the other three controls, i.e. aircraft, military and police and computers, no specific international obligation or statutory requirement existed, and several details therefore remain unresolved. The Reagan Administration however did not intend to authorize the export of civilian aircraft that could be used for military or paramilitary purposes. As far as ARMSCOR and its subsidiaries were concerned, the current foreign policy controls covered the sales of civilian goods to these agencies.<sup>32</sup>

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30. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5, **Comments** by William A. Root, Director: Office of East-West Trade, Department of State, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982.

31. As quoted in Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9, **Report**: International Seminar on the United Nations arms embargo against South Africa, 28 – 30 May 1986, p. 5.

32. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Comments** by William A. Root, Director: Office of East-West Trade, Department of State, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982.

In answer to the question whether circumstances in South Africa changed to warrant modification of the export regulations, the Department of State replied that the matter was under study, and that other reasons for changes were also being considered. These included the probability of achieving the intended foreign policy purposes, compatibility with the foreign policy objectives of the US, reaction of other countries, likely effects on US exports and the US economy, enforceability, and foreign policy consequences of not imposing controls. The Department of State was backed in this opinion by Bo Denysyk, the US Deputy Assistant Secretary of Commerce for Export Administration. Denysyk delivered a statement before the Subcommittee Hearing in which he listed the same reasons for possible changes in the export regulations with regard to South Africa. He emphasized that no one reason or criterion drove the decision to impose, maintain or expand foreign policy controls, but that there had to be a balance between all six of the reasons mentioned. He reiterated that there was no need for concern, however, as the Reagan Administration had publicly and privately informed the South African Government that its policy of apartheid was repugnant. The Reagan Administration would adhere to all United Nations resolutions and would continue to encourage change in South Africa through the policy of constructive engagement, which must be reflected in the export controls due to be announced at the end of February 1982.<sup>33</sup>

On 26 February 1982, the Reagan Administration relaxed export restrictions on nonmilitary goods to the South African military and police forces, to take effect on 1 March 1982. Under the new regulations, the US Government would not maintain special export controls on four categories of commodities and technical data, namely general purpose hygienic items such as soap and toothpaste, general purpose industrial equipment and industrial chemicals such as solvents, cleaners and basic machine tools, personal electronics and personal communications equipment, including word processors, copy machines, hand-held calculators and other office equipment, and lastly personal gift packages. The action represented a reversal of the arms embargo policy established by the Carter Administration in 1978. The Department of State quickly reiterated that the new regulations were not intended to open the way for the sale of equipment that might be used for military purposes or to enforce apartheid. A case-to-

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33. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5, *Comments* by William A. Root, Director: Office of East-West Trade, Department of State, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982; *Prepared statement* of Bo Denysyk, Deputy Assistant Secretary of Commerce for Export Administration, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982, pp. 4-8.

case review of all export applications to South Africa would still be undertaken and any export that could be used to enforce apartheid would be refused. Denysyk as spokesperson for the Department of Commerce said that although the relaxation of certain export restrictions signified a shift in liberalizing export controls, it should not be taken to mean that the Reagan Administration was condoning the policy of apartheid. Rather, it was a small step taken by the US toward South Africa, and the latter should be taking small steps toward the US in turn. He also reiterated that the relaxation of controls would not affect the US' adherence to the United Nations arms embargo.<sup>34</sup>

The new export regulations elicited swift denouncement from several US members of Congress. For example, the chairman of the House of Representatives Subcommittee on African Affairs, Howard Wolpe, called the step a tragic foreign policy mistake and unmistakable evidence of a tilt toward South Africa by the Reagan Administration. He was afraid that the South African Government would take it as a further sign that they could continue to reinforce their repression of non-white South Africans. Furthermore, Wolpe asserted that the step would be taken throughout the African continent as evidence of US support for the South African Government's apartheid policy.<sup>35</sup>

In response to the criticism, the Department of State again defended the policy change by saying that the new regulations were less arbitrary than those they replaced. The case for modification rested on four points: First, the regulations in their previous form were unenforceable. Advocates of strict US export controls tended to ignore the crucial factor that the enforcement of such restrictions upon South Africa would require an army of US officials operating abroad to monitor exports of US-origin items from other countries to South Africa, as well as another body of officials operating in South Africa to monitor that country's imports. For example, how could an official of the US Embassy in Pretoria be expected to recognize a US part in a West German light aircraft, or a component in a Japanese computer that had been manufactured with the use of US technology? Even more important, why would the South African Government allow US officials to inspect its entire range of imports for US content?

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34. W. Chapman and J.M. Goshko, U.S. lifts curbs on certain sales to South Africa, *The Washington Post*, 27 February 1982, pp. A1, A12; R.D. Hershey, U.S. said to ease South Africa curb, *The New York Times*, Section II, 27 February 1982, p. 30; Anonymous, U.S. to ease South Africa embargo, *Chicago Tribune*, 27 February 1982, p. 1.

35. R.D. Hershey, U.S. said to ease South Africa curb, *The New York Times*, 27 February 1982, Section II, p. 30; W. Chapman & J.M. Goshko, U.S. lifts curbs on certain sales to South Africa, *The Washington Post*, 27 February 1982, p. A12.

Secondly, failure to modify the regulations could in future seriously hinder progress of the negotiations for Namibian independence, in which the US was taking the lead. The negotiations had reached a stage where the US had to appear willing to offer South Africa some concessions in return for the latter's support of Namibian independence.

Thirdly, maintenance of the previous export restrictions might have never obliged South Africa to alter its domestic policies. Rather, stricter regulations would be no more effective and would only serve to hamper US business involvement in South Africa, despite the fact that US companies had a record in breaking down racial barriers. The US had to face the fact that South Africa was dependent upon the US for only 16,5 percent of its broad range of imports. It was true that if South Africa were denied access to high technology US imports, it would suffer economically. Nonetheless, to assert that deprivation of high technology imports would necessarily prompt changes in South Africa's policy of apartheid would be to assume a degree of economic rationality that was altogether atypical of the South African Government. Furthermore, so long as West Germany, Japan and other industrial nations continued to treat their own economic interests as the primary criteria of their foreign policies, South Africa would not lack high technology imports.

Lastly, in the light of the mentioned factors, there was no justification either for the maintenance of current regulations or for further restrictions on US trade with South Africa. Some advocates of sanctions against South Africa have asserted that the primary question was not one of effectiveness of such measures, but of morality. In other words, the US should not associate with any state that deviates so broadly from its own stance on human rights. However, the moral question was not quite so simple, as a truly moral policy would have to be applied uniformly. That would mean that the US would have to cut commercial contacts with almost every state in Southern Africa, especially Mozambique and Angola, where human rights were also badly violated. Still, even if the South African Government was Southern Africa's sole offender against human rights, would it be moral for the US to cut all trade connections with South Africa? Such a cut would also prove to be the abandonment of US influence through American companies in South Africa. That would make the US guilty of hypocrisy and

would deprive it of its capacity to assist South African black and colored people in their quest for expanded civil rights.<sup>36</sup>

In a statement on 1 March 1982, the Department of State explained that in its annual review of foreign policy controls, it was determined that the total embargo on exports to the South African military and police was too widely cast to achieve its objective. They therefore decided to refine the export controls and have identified certain items of no national security concern as commodities that did not need to be controlled. The adjustments made the South African trade controls less arbitrary from the perspective of US exporters, while at the same time it maintained a strong symbolic and practical disassociation of the US from the enforcement of apartheid in South Africa. The new regulations still went beyond the minimum legal obligations of the United Nations arms embargo and were still more than those of other Western industrial countries. There would be continued prohibition on the export of arms and related material and equipment for the production of arms and related material, as well as on the export of a broader category of goods and technology that included virtually everything of particular applicability to military operations or production. In addition to these, most other proposed exports to South Africa would be evaluated on a case-by-case basis and would be prohibited if the export would contribute significantly to South African military and police functions. However, a carefully defined set of items, including food, non-military clothing and personal hygienic goods, certain industrial equipment and material and certain office equipment that had nothing to do with the enforcement of apartheid or policing in South Africa, were exempted from the case-by-case review process.<sup>37</sup>

According to the Departments of State and Commerce, the new regulations were aimed at eliminating some of the negative effects of the old regulations, which in some respects were burdensome on US exporters. For example, the old regulations many

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36. Anonymous, U.S. confirms easing of South African curbs, *The New York Times*, 28 February 1982, p. 8; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: **Policy analysis**, U.S. exports to South Africa: The tough choice, 9 February 1982, pp. 4-8.

37. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Statement** by US Department of State on change in export controls on United States trade with South Africa, 1 March 1982, pp. 1-2; *Federal Register* 47(43), Department of Commerce Extension of Foreign Policy Export Controls, 4 March 1982, p. 9203; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01368, **Testimony** by the Assistant Secretary of State for Human Rights and Humanitarian Affairs and the Assistant Secretary of State for African Affairs before two Subcommittees of the House Foreign Affairs Committee, 9 March 1982.



times prohibited the export of innocuous items not banned by other Western nations to the private sector in South Africa, even if only a small portion of such items would ultimately be sold on the open market to the South African military or police. Furthermore, the old regulations prevented the export of parts and components to third countries if those items would constitute even an insignificant portion of goods manufactured in that country and sold to the South African military and police. Under the new regulations, the export of some items that would not contribute significantly to military or police functions would be exported to South Africa. It included provisions designed to limit the anomalous effects of the old regulations.<sup>38</sup>

Changes were also made in the regulations governing non-military aircraft and computer sales to South Africa. The old regulations required exporters of aircraft to obtain written assurances from South African purchasers that the aircraft would not be used for police, military or paramilitary purposes. Under the new regulations, licenses for the export of aircraft would be granted only on condition that the aircraft would not be put to police, military or paramilitary use. Written assurances burdened both the exporters and the US Government, and would therefore no longer be required. However, according to the Export Administration Regulations, any exporter who sold an aircraft to South Africa with knowledge or reason to believe that the license condition would be violated, was subjected to prosecution. Concerning computer sales, under the old regulations computer sales to South Africa were reviewed on a case-by-case basis to determine if the computer would be used to enforce the policy of apartheid. Under the new regulations, the restriction was limited to the South African military and police and five Government agencies primarily responsible for the enforcement of apartheid, namely the Departments of Cooperation and Development, Interior, Community Development, Justice and Manpower. Applications for validated licenses for computers that would not be used to enforce apartheid would generally be considered favorably. According to the Department of State, the change in computer regulations would make it less

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38. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Statement** by the United States Department of State on change in export controls on United States trade with South Africa, 1 March 1982, p. 2; **Federal Register** 47(43), Department of Commerce Extension of Foreign Policy Export Controls, 4 March 1982, p. 9201.

burdensome and more administrable by providing a more precise indication of what activities should be considered as enforcing apartheid.<sup>39</sup>

Under the new regulations, a validated export license was required for export or re-export to South Africa or Namibia of any commodity, including commodities that may be exported to any destination in Country Group V<sup>40</sup> under a general license, where the exporter or re-exporter knew or had reason to know that the commodity would be sold to or used by the military or police entities. Individual applications would be viewed on a case-by-case basis. The following items were however exempt from this regulation: food, non-military clothing, personal hygiene items, chemical and general industrial equipment of no national security concern, word processors, personal computers, electronic copy machines, home electronics and personal communications not controlled for national security purposes. Authorizations for exports, re-exports or sales for use by military and police entities in South Africa and Namibia, of US-origin technical data, foreign-origin goods containing US-origin parts, components or materials, would be denied, except the following on a case-by-case basis:

- Items not controlled for national security purposes unless they could contribute significantly to military or police functions;
- Medicines, medical supplies and medical equipment;
- Commodities and technical data to be used in the prevention of unlawful interference with international civil aviation;
- Electronic equipment already mentioned earlier in this paragraph, however only if the export would not contribute significantly to military or police functions;
- Items produced outside the US with twenty percent or less US-origin components;
- Insubstantial portions of commodities or technical data exported to entities other than the South African military or police may be sold to the latter only

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39. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5: **Statement** by the United States Department of State on change in export controls on United States trade with South Africa, 1 March 1982, p. 2; **Federal Register** 47(43), Department of Commerce Extension of Foreign Policy Export Controls, 4 March 1982, p. 9204; P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, **Department of State Bulletin**, May 1983, pp. 27-28.

40. Friendly, non-allied countries.

if these items would not contribute significantly to military or police functions. All users of US technical data in South Africa or Namibia had to be informed in writing at the time of the export or re-export of the data that the direct product of that data may not be sold or otherwise made available, directly or indirectly, to military or police entities in South Africa or Namibia.<sup>41</sup>

A validated license was required for the export to any end user in South Africa or Namibia of any instrument or piece of equipment that could be particularly useful in crime control and detection. This restriction was however not unique to South Africa – a validated license for the export of such equipment to any country except NATO members, Japan, Australia and New Zealand was required. The Export Administration Regulations provided that applications for validated licenses for such equipment would generally be considered favorably on a case-by-case basis, unless evidence existed that the government of the importing country may have violated international human rights and that the judicious use of export control regulations would be helpful in deterring the development of a consistent pattern of such violations or in distancing the US from such violations, as was the case with South Africa.<sup>42</sup>

In September 1982, the Reagan Administration further modified the export control regulations to allow companies that had sold equipment to the South African police and military under approved licenses, to supply service manuals for the equipment without submitting separate license applications. Air ambulances were placed under the exception for medical equipment, and the export without license for items falling under the so-called 'basket entries' of the Commodity Control List, i.e. miscellaneous electronic products and other products not elsewhere specified, were allowed. Lastly, subsidiaries of Armscor were specifically defined as military entities.<sup>43</sup>

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41. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Statement** by the US Department of State on change in export controls on United States trade with South Africa, 1 March 1982, pp. 2-3; **Federal Register** 47(43), Department of Commerce extension of Foreign Policy Export Controls, 4 March 1982, pp. 9203-9204.
  42. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Federal Register** 47(43), Department of Commerce extension of Foreign Policy Export Controls, 4 March 1982, p. 9204; P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, **Department of State Bulletin**, May 1983, pp. 27-28.
  43. P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, **Department of State Bulletin**, May 1983, p. 29.

On 21 January 1983, the Reagan Administration published yet another revision of Commodity Control List regulations on exports to the police and military. It was emphasized that the Commodity Control List covered non-Munitions List items and that no change was made in items on the Munitions List, through which the US implemented the United Nations arms embargo. The changes were occasioned by the legal requirement that US foreign policy export controls be reviewed annually and either renewed or allowed to lapse. It was further emphasized that the changes were not related to any specific event and were designed to make the US' export controls a more effective instrument of US opposition to apartheid.<sup>44</sup>

Concerning the annual revision, two broad changes were made in the restrictions on exports to the South African military and police. Firstly, all items controlled for human rights or nuclear non-proliferation purposes were embargoed for the South African military and police. These items were previously subject to a case-by-case review, and included items on the crime control list, a list of commodities intended for police and other law enforcement purposes, as well as a range of dual-use items that had been identified as being of potential value in a nuclear weapons program. Secondly, six categories of non-sensitive items were removed from case-by-case review and made subject to general license procedures. The Department of State viewed these changes as technical in nature, with no intent to make it a political statement. According to the Department of State, the two changes together served to focus the US controls on those exports to the South African military and police that were of practical and symbolic concern to the US, i.e. military-related items and items controlled for human rights and nuclear non-proliferation purposes.<sup>45</sup>

The January 1983 changes only affected the export of items subject to Department of Commerce license procedures. According to the Department of State, no changes were made that in any way affected US commitment to or implementation of the United Nations arms embargo, which was enforced primarily through the Department of State's international traffic in arms regulations. No changes were furthermore made to restrictions on exports of computers to South African agencies that enforced apartheid

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44. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01469: **Telegram**: Secretary of State to United States Consul, Cape Town, 22 January 1983.

45. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01469: **Telegram**: Secretary of State to United States Consul, Cape Town, 22 January 1983.

or in restrictions on export of civilian light aircraft for the South African police, military or paramilitary end-users.<sup>46</sup>

But, despite the Reagan Administration's continued assurances that the change in regulations did not by any means weaken the arms embargo against South Africa, evidence show that it successfully reversed the trend of the Carter Administration to reduce the flow of Munitions List items to South Africa. During the Carter Administration, after the institution of the arms embargo, the flow had been reduced as follows: in 1978, the US Department of State issued \$4,6 million worth of Munitions List licenses for sales to South Africa; in 1979, the value of such licenses was \$25,000; and in 1980, no licenses were granted for Munitions List sales to South Africa. On the other hand, during the fiscal years 1981-1983, i.e. under the Reagan Administration, the Department of State's Office of Munitions Control authorized twenty-nine separate exports of Munitions List items to South Africa. These exports covered military goods worth over \$28,3 million, which was far more than the total value of commercial military exports to South Africa for the entire previous thirty years.<sup>47</sup>

#### 4.5 THE REACTION TO THE NEW ARMS EMBARGO REGULATIONS

The South African Government was cautiously excited about the new regulations. In a telex from the South African Embassy in the US to the Department of Foreign Affairs and Information, it was pointed out that the new regulations represented a considerable relaxation of the previous arms embargo regulations. Careful examination of the new regulations would make it clear that many import possibilities that were previously excluded had now been created, e.g. foreign-origin equipment that permitted a 20 percent US-origin component. Furthermore, although the Reagan Administration retained a broad range of regulations, the South African Embassy had been given to understand that a progressive further relaxation of US export regulations would take place over the next three years. The Department of State's position was that the new regulations represented a significant but politically less sensitive first phase in what they anticipated would be a consistent process of elimination of trade restraints with South Africa. In a

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46. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01469: *Telegram*: Secretary of State to United States Consul, Cape Town, 22 January 1983.

47. NARMIC, *Military exports to South Africa: A research report on the arms embargo*, p. 3.

further telex to the Director-General: Foreign Affairs and Information on 28 February 1982, the South African Ambassador in the US suggested that the South African Government should identify, in order of priority, those regulations which would be particularly irksome on having them removed. Apparently, the Ambassador had succeeded in the past year to generate considerable support from US business interests to which the Reagan Administration was inclined to be responsive. This campaign, the Ambassador advised, should not be neglected, but should continue on a well-coordinated basis. Therefore, the Ambassador urged an assessment of the South African priorities in order to enable the South African Embassy in the US to identify those US business concerns that could and should be activated.<sup>48</sup>

The South African excitement about the relaxation of certain arms embargo regulations almost got out of hand and created a difficult situation for the Reagan Administration when the South African Press Association (SAPA) reported on 2 March 1982 that the Chairman of Armscor, Commandant P.G. Marais, had announced that the US had lifted the embargo on the sale of certain military equipment to South Africa. The South African Embassy in the US reacted hastily, saying that if Marais was correctly quoted, his statement evidenced inaccurate information or a wrong interpretation of the limited relaxation of US export regulations to South Africa. Such a deduction provided ammunition to the critics in the US who had launched heavy attacks against the Reagan Administration since the announcement of the new regulations, and who would most certainly use statements by prominent South Africans in an effort to embarrass the Reagan Administration. The US Embassy in Pretoria was also quick to condemn the report in a letter to Marais. It was explained that in the interest of avoiding any possible misinterpretation of the US Export Administration Regulations with regard to South Africa, it must be clearly understood that the new regulations only refined the controls over certain items and identified certain other items of no US national security concern that did not need to be controlled. The US was adamant to continue to adhere to the United Nations arms embargo and there had been no change in US policy regarding the sale of armaments, weapons systems or related material or equipment for the production of such items to South Africa. On 15 March 1982, Marais denied in a letter

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48. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Telex** from South African Embassy, Washington, D.C. to Department of Foreign Affairs and Information, 27 February 1982; **Letter** from Director-General: Foreign Affairs and Information to Director-General: Industries, Commerce and Tourism, Chief: SA Defense Force and Executive Vice-Chairman: Armscor, 9 March 1982.

to the South African Director-General of Foreign Affairs that he had issued any statement about the lifting of the US' embargo on the sale of military equipment to South Africa. He emphasized that Armscor was completely up to date with US decisions in this regard and had taken note that the US would continue to adhere strictly to the arms embargo.<sup>49</sup>

The relaxation of certain export regulations vis-à-vis South Africa evidenced a turn-about in a 20-year trend toward greater limits on US trade and official cooperation with South Africa. But instead of biding out the time and waiting for more positive actions by the Reagan Administration, the SADF launched a renewed incursion into Angola. The Department of State immediately reacted, saying that the Reagan Administration continued to deplore any escalation of violence in the region from any quarter, and that the loss of life in the incursion underlined the urgent need of a settlement of the Namibia issue. In the US Congress, anti-apartheid activists used the raid to attack the Reagan Administration's relaxation of certain arms embargo export regulations vis-à-vis South Africa. In a hearing before the Senate Foreign Relations Subcommittee, Senator Paul Tsongas, a well-known anti-apartheid activist, suggested that the incursion served as evidence that the Reagan Administration was in fact contributing to the capability of the SADF by excluding certain items from the list of embargoed items and general relaxations of controls to military authorities in South Africa. As example, he specifically referred to reports about an application for an export license by US companies for ambulance aircraft to South Africa. Tsongas was concerned that the aircraft might be refitted by the SADF for offensive purposes or the evacuation of wounded soldiers from Angola.<sup>50</sup>

The Department of State responded to Tsongas' concern by saying that the Reagan Administration was inclined to be favorably disposed to granting the licenses for the ambulance aircraft under the new regulations, which allowed export licenses for medical equipment on a case-by-case basis. As ambulance aircraft were used to hospitalize the

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49. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5: **Telex** from South African Embassy, Washington, D.C. to Department of Foreign Affairs and Information, 3 March 1982; **Letter**: United States Embassy, Pretoria, to Commandant P.G. Marais, 4 March 1982; **Telex** from P.G. Marais to Director-General: Foreign Affairs, 15 March 1982.

50. R. Kramer, Proposed aircraft sales to S. Africa tests new United States trade policy, *The Washington Post*, 16 March 1982, p. A20; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Telegram** from South African Ambassador, Washington, D.C. to Director-General: Foreign Affairs and Information, 18 March 1982.



sick and wounded, its use was for humanitarian purposes. As such, ambulance aircraft should be categorized as a medical item. Therefore, in the opinion of the Department of State, there was no difference between such aircraft and any other medical equipment or medicines. In addition, the Department of State was of the opinion that South Africa could acquire comparable aircraft for offensive purposes at a fraction of the cost of the highly sophisticated, specially equipped ambulance aircraft for which export licenses were requested.<sup>51</sup>

Tsongas was not so easily appeased. He maintained that the Senate Foreign Relations Subcommittee was concerned about the environment in which relaxation of export regulations was taking place, and drew a comparison between the South African security legislation and treatment of political detainees and the situation in the Soviet Union. The Department of State spokesmen in answer vigorously defended the Reagan Administration's policy of constructive engagement, saying that the Administration had not changed its attitude to South Africa and that the amended export control regulations should not be interpreted as indicative of any change in that attitude. Tsongas still felt that a decision to approve export licenses for ambulance aircraft to South Africa would convey a message of cooperation and support to both South Africa and the rest of Africa that would not be in the interests of the US. However, Tsongas finally conceded that if such exports were the price to be paid for a settlement in South West Africa (Namibia), then he understood the Reagan Administration's dilemma. On that ground he was open to persuasion that a more liberal interpretation of the export control regulations was in the interests of the US. However, he reiterated that the US should not lose sight of the fact that great symbolism attached to any action vis-à-vis South Africa, and for that reason he would never be persuaded that in the existing circumstances, a closer relationship between the US and South Africa was desirable. The Department of State replied that no symbolism attached to the amendment of the export control regulations, for the simple reason that the US Administration was obliged by Congress to review the control list annually.<sup>52</sup>

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51. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5, **Telegram** from South African Ambassador, Washington, D.C. to Director-General: Foreign Affairs and Information, 18 March 1982.

52. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5, **Telegram** from South African Ambassador, Washington, D.C. to Director-General: Foreign Affairs and Information, 18 March 1982.

On 22 March 1982, Crocker defended the Reagan Administration's policy before the Subcommittee on Security and Terrorism of the Senate Judiciary Committee. Once again, the emphasis was on communist influence in Southern Africa. Crocker categorically condemned all terrorist and other violent acts that SWAPO and the ANC, with the help of the Soviet Union, undertook to bring about change in Namibia and South Africa. He was less assertive as far as South Africa was concerned. Although he condemned the violence in the country, he said that the Reagan Administration was pursuing a *careful* policy of constructive engagement.<sup>53</sup> This re-emphasized the fact that the Reagan Administration regarded South Africa as an important ally in the Cold War.

On 24 March 1982, Senator Tsongas and some co-sponsors lay before the Senate a resolution on export control regulations for the Middle East and South Africa. The resolution called on the Reagan Administration to modify the new regulations in several specific ways. According to Tsongas and his co-sponsors, the new export regulations for South Africa were a case in point of poorly designed foreign policy signals, as the changes in export regulations for South Africa significantly relaxed the US implementation of the United Nations arms embargo against South Africa. In the opinion of Tsongas, nothing was more crucial to the survival of the policy of apartheid than the flow of armaments to the South African military and police. But now, the new regulations would allow the export of aircraft, advanced computers and other national security controlled items to those entities. Of concern to Tsongas, was that such exports would be more than foreign policy signals in the sense that it would become foreign policy. In other words, it would identify the US with a system of racial oppression that was universally regarded as anathema to liberty and human dignity.<sup>54</sup>

Tsongas made it clear that he was one Senator among many who had tempered their criticism of the Reagan Administration's policy of constructive engagement, which had unfolded over the preceding year. He had done that so as to leave the Reagan Administration with both time and political space to conduct the experiment of constructive engagement. Therefore, he had not publicly condemn the visit of the South African military officials in 1981, nor the Administration's tacit acceptance of the South African military incursions into Angola, nor prior export regulation changes dealing with

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53. C.A. Crocker, Communist influence in Southern Africa, *Department of State Bulletin*, June 1982, p. 46.

54. Resolution on Export Control Regulations for the Middle East and South Africa, *Congressional Record* 128(31), Proceedings and Debates of the 97<sup>th</sup> Congress, Second Session, Senate, 24 March 1982.

medical supplies and airport equipment, and not even the apparently growing cooperation with South Africa on nuclear matters. He firmly believed that the Reagan Administration was seeking an internationally acceptable settlement for the South West Africa (Namibia) issue. However, in his eyes constructive engagement would degenerate into a pro-South African policy if the Reagan Administration chose to abandon limited signals in favor of unqualified embrace, which was exactly the case with certain of the export regulations that had changed. Tsongas' resolution was aimed at pointing out the changes which he and his co-sponsors thought was significant, i.e. aircraft, computers and all other items under national security controls, and urging that they be reverted to the prior regulations of not allowing their export to the South African military and police. The resolution further urged that a significant loophole in the arms embargo be closed as far as Armscor was concerned. Tsongas asserted that the enforcement of the arms embargo was ambiguous as far as Armscor and its subsidiaries were concerned. As the South African military relied on Armscor and its subsidiaries for a large number of armaments, the resolution therefore requested that Armscor, its subsidiaries and the CSIR be defined as military entities.<sup>55</sup> In this regard, however, Tsongas' request was not based on entirely correct facts, as the Carter Administration already in September 1978 issued a notice in the US Federal Register that Armscor, amongst other companies, was considered to be a military entity.<sup>56</sup>

By the end of 1983, sentiment became high in anti-apartheid circles about the Reagan Administration's positive stance towards South Africa as especially evident from the relaxation of arms export controls. One example of this could be concluded from a seminar arranged by the anti-apartheid organization TransAfrica on the question of should the US impose sanctions on South Africa or not. The panelists included a representative from the Department of State, David Dlouhy, and Oumarou Youssoufou, the OAU representative to the United Nations, amongst other representatives from the ANC, the American Committee on Africa, the Washington Office of Africa and SWAPO.

The debate turned to the arms embargo when Dlouhy used it to answer a question about the efficacy of sanctions. According to Dlouhy, the arms embargo had acted as an incentive to the development of military self-sufficiency of South Africa. Rather than

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55. Resolution on Export Control Regulations for the Middle East and South Africa, *Congressional Record* 128(31), Proceedings and Debates of the 97<sup>th</sup> Congress, Second Session, Senate, 24 March 1982.

56. See Chapter 3, p. 113-114.

isolating South Africa or denying it military capability, the arms embargo had strengthened South Africa's military capabilities, making it a regional superpower. Furthermore, the South African military had gained certain predominance inside the South African Government. It was certainly not the objective of those who voted for the arms embargo in 1977. Therefore, it only meant one thing – that particular sanctions had not worked. In the light of that, Dlouhy doubted that further sanctions against South Africa would have the desired impact. Youssoufou however did not agree with Dlouhy, saying that South Africa was a regional superpower even before the arms embargo was instituted. In his opinion, the arms embargo was an appropriate measure despite the fact that South Africa had produced more arms, because of the important psychological effect thereof. South Africa was still dependent on the US, and by imposing stricter measures like sanctions and strengthening the arms embargo, the US could still play a very important role in ending apartheid in South Africa.<sup>57</sup>

In January 1984, two anti-apartheid lobbying groups, the American Friends Service Committee (AFSC) and the Washington Office on Africa, lashed out in a report against the Reagan Administration's alleged relaxation of arms embargo regulations. The two organizations claimed that they had evidence that the Reagan Administration had during the previous three years sharply increased the export of items with military uses to South African firms by authorizing 29 export licenses worth almost \$30 million in contravention of the United Nations arms embargo. They claimed to have obtained the information from official US records after invoking the Freedom of Information Act, which gave the American public the right to obtain certain information from Government departments. Although the AFSC was given the assurance that only items on the Munitions List that also had civilian uses were approved for export to South Africa after careful consideration, they criticized these exports, stating that once the technology reached South Africa, it would be impossible to prevent it from being used by the South African Government for military purposes, as many of the exports went to firms that were doing research for the South African Government. However, the two organizations produced no proof in their report that this indeed happened. It only said that the findings were based on the mentioned documents, which were not reproduced in the report,

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57. Anonymous, Should the U.S. impose sanctions? *TransAfrica Forum*, Fall 1983, pp. 39-40.

interviews with Reagan Administration representatives and a survey of military-industrial publications and South African patent documents.<sup>58</sup>

In addition to the above-mentioned reports, a privately funded American study group called the Center for Defense Information published a report that alleged that since the start of the Reagan Administration, US Government sales of military-related hardware to South Africa had indeed decreased, but commercial sales of military-related hardware to South African clients increased. This hardware included aerial mapping equipment, parts for the C-130 transport aircraft, inertial navigation systems, military vehicles and spare parts, riot control chemical agents, herbicides, tank engine parts, speech scramblers, computer components and ammunition.<sup>59</sup>

Although the abovementioned organizations did not provide their proof, the Department of State acknowledged that the sales had indeed taken place. However, it emphasized strongly that most of the licenses that were approved during the previous three years had been for data-encoding equipment used by banks primarily in automatic teller machines, and as such were not the sort of equipment that could be readily diverted to military uses. There was only one exception, namely the export of electronic equipment and navy vessels to a company called Howitzers. However, the sale was done in a fraudulent manner and the persons involved in the transaction had already been prosecuted and were serving a prison term. The Department also denied that the increase of exports to South Africa was a result of political pressure for better relations with South Africa under the policy of Constructive Engagement, claiming that it was simply legitimate trade.<sup>60</sup>

In April 1984, the American Committee on Africa (ACOA) joined ranks with the above-mentioned two organizations when it delivered a statement entitled "*Constructive*

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58. L. Verdon, Groups hit Administration: Rise in military exports to South Africa alleged, *The Washington Post*, 13 January 1984, p. A 26; G. L'Ange, United States breaks the SA arms ban – claim, *The Star*, 13 January 1984, p. 7; Anonymous, Amerika verbreek glo VV-verbod, *Die Transvaler*, 14 January 1984, p. 3; Anonymous, U.S. licensed R35 M military sales to SA – claim, *The Natal Witness*, 14 January 1984, p. 3; Anonymous, 2 groups say U.S. violates South Africa arms embargo, *The New York Times*, 14 January 1984, p. 3; Anonymous, US said to have violated S. Africa arms sales ban, *The Christian Science Monitor*, 16 January 1984, p. 1.

59. N. Sheppard Jr., U.S. to name Israel as arms ban violator, *Chicago Tribune*, 24 March 1987, p. 4.

60. L. Verdon, Groups hit Administration: Rise in military exports to South Africa alleged, *The Washington Post*, 13 January 1984, p. A 26; Anonymous, 2 groups say U.S. violates South Africa arms embargo, *The New York Times*, 14 January 1984, p. 3; Anonymous, US said to have violated S. Africa arms sales ban, *The Christian Science Monitor*, 16 January 1984, p. 1.

*Engagement and the Arms Embargo*” before the United Nations Special Committee against Apartheid. In the statement, the Reagan Administration was again accused of a significant relaxation of the arms embargo, thereby assisting South Africa to maintain its power in Southern Africa. According to ACOA, although South Africa was spending millions of Rands to manufacture its own armaments, a fact that was demonstrated clearly at an armaments show in Chile in February 1984, it remained dependent on foreign sources for advanced technology, vehicles and aircraft. These were obtained because Western countries, including the US, did not implement the arms embargo in a forceful and effective manner. Also, a second weakness in the arms embargo was the exclusion from the embargo of many elements with a clear and direct military application.<sup>61</sup> In the light of these allegations, it is deemed important to at this point discuss some examples of exports to South Africa during the first term of the Reagan Administration, in order to establish if the allegations were in fact true.

#### **4.6 ALLEGED AND ACTUAL VIOLATIONS OF THE ARMS EMBARGO DURING THE FIRST TERM OF THE REAGAN ADMINISTRATION**

##### **4.6.1 SOUTH AFRICAN MILITARY PERSONNEL IN THE US**

In 1984, a US representative at the United Nations asserted that the Reagan Administration had not provided any military training to South African military or police members. This statement was contradictory to events occurring from 1981-1984. As discussed, in mid-1981 the Reagan Administration agreed to the establishment of more South African honorary consulates in the US, renewed the exchange of military attachés between the US and South Africa, and granted authorization for the training of the South African Coast Guard.<sup>62</sup> Also, in March 1982, it was disclosed by the *New York Times* that the Reagan Administration had quietly eased a long-standing practice of not allowing high-ranking South African military officers into the US. The reason for the disclosure was that in preceding months, senior South African military officers had come to the US as part of delegations that met privately with Crocker on the question of Namibia. One of these officials was Lieutenant-General P.W. van der Westhuizen, the

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61. R. Knight, Constructive Engagement and the arms embargo, *ACOA News*, 3 April 1984, pp. 1-2.

62. See Section 4.4, p. 188.

chief of staff for intelligence in the SADF, who was requested to leave the US in March 1981 after he and four others entered the country under misleading circumstances.<sup>63</sup>

In March 1982, questions on these relaxations were raised in a Hearing on the Enforcement of the US arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs in the House of Representatives. Firstly, a member of the African Subcommittee, Bill Gray, wanted clarification on the role of the South African defense attachés in the US. He also wanted to know if there had been an increase in the number of South African defense attachés in the US. In answer, the Office Director for Southern Africa in the Department of State, Dan Simpson, said that the typical role of a defense attaché would be to provide information on an activity in a country. He would also perform basic intelligence and information roles and liaise with the armed forces of the country in question. In other words, he would try to gain information about the Defense Force of the country in question. With regard to the number of South African defense attachés in the US, Simpson indicated that the new regulations simply restored the level of South African attachés to a previous level that existed prior to the expulsion of some US attachés from South Africa due to the spy-plane incident discussed in Chapter 3<sup>64</sup>. However, the number of attachés increased. Previously, South Africa only had an army attaché in the US, while now it also added an air force attaché and a navy attaché.<sup>65</sup>

Turning to the training of the South African Coast Guard in the US, which was also approved under the new regulations, Gray enquired about the nature and purpose of the training. He wanted to know how that, together with the increase of South African defense attachés in the US, reconciled with the US arms embargo against South Africa. Simpson in answer pointed out that the purpose of the training of the South African Coast Guard was to increase their capacity to carry out their normal role of air and sea rescue on the busy international sea route around the Cape. As far as the arms embargo

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63. See Section 4.3, pp. 181-183; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 139; Anonymous, U.S. eases ban on South African officers, *The New York Times*, 12 March 1982, p. A3.

64. See Chapter 3, Section 3.5.1.4, pp. 139-142.

65. R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 139; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01374: *Hearing* on Enforcement of the United States arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 30 March 1982, pp. 20-21.



was concerned, Simpson was of the opinion that the embargo applied to the sale and provision of arms-related materials. He reiterated that the role of a coast guard was certainly not primarily military and as far as he knew, the South African Government had voiced its intention of creating a purely civilian coast guard within the Ministry of Transport. In answer to a question by Gray if that was the rationale behind the training, i.e. that it did not contradict the letter of the arms embargo because it was not physical material that was provided, Simpson said that it was not quite what he meant. What he meant was that US ships sailed around the Cape of Good Hope, and that it was in the interest of the US to see that if some problem were to befall them, South Africa would be capable of responding to their needs. Simpson however did not address the other part of the question on whether the increased amount of South African attachés in the US compromised the arms embargo.<sup>66</sup>

Between 1981 and 1984, the US Coast Guard trained ten South African naval and air force officers in search and rescue techniques. The Department of State acknowledged the training to be of potential military benefit. In 1982, a South African police major participated in a police-media training program in Chicago, while in 1983, two South African police members attended a convention of the International Association of Chiefs of Police in Detroit. The organization included South African police and security officials among its members. For anti-apartheid lobbyists, South African participation in such organizations was significant in increasing South African police capabilities, especially in the light of a South African Police General's words after the country was admitted to a similar body, the International Police Association: "*becoming a member of the International Police Association is a highlight in these times of isolation experienced by South Africa.*"<sup>67</sup> In 1983, the Reagan Administration trained a South African vice and drug police officer in drug law enforcement techniques.<sup>68</sup>

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66. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01374: **Hearing** on Enforcement of the United States arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 30 March 1982, p. 21.

67. As quoted in R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 140.

68. R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 138.

#### 4.6.2 AIRCRAFT

Concern about the supply of military aircraft and other light aircraft to South African during the Reagan Administration was first raised in March 1981, when a *New York Times* columnist claimed that the Reagan Administration was considering granting permission to Israel to export its fighter-bomber aircraft, called the Kfir, to South Africa. As the Kfir contained a US manufactured jet engine, such a transfer would have meant a breach of the arms embargo by both Israel and the US. However, shortly after the report the US Ambassador to the United Nations, Jeanne Kirkpatrick, stated clearly that the US would not permit third-country sales to South Africa of military equipment that contained US components, and this included the Kfir. This signaled an upholding of a major element in the arms embargo by the Reagan Administration.<sup>69</sup>

In 1981, a US company, Beech Aircraft, applied for export licenses for ambulance aircraft to South Africa. The Reagan Administration, in light of the review of the Export Control Regulations vis-à-vis South Africa, delayed a decision on the application. The review nonetheless provided Beech Aircraft with an opportunity to discreetly but actively lobby in both the US House of Representatives and the Senate for the applications to be considered favorably. In March 1982, as discussed, the Reagan Administration amended the export regulations vis-à-vis South Africa with considerable concessions in the supply of medical equipment and non-military aircraft to that country. Shortly after the new export regulations were announced, Beech Aircraft applied pressure for its application to be approved, and was joined by Piper Aircraft Corporation. The two aircraft manufacturers competed for the sale of six twin-engine turboprop aircraft to the South African Air Force for use as air ambulances, valued at \$12 million. Although the revised regulations maintained the ban on sales of aircraft and helicopters for military, paramilitary or police use, the Departments of State and Commerce indicated that they were considering granting the licenses for the sale under the new exemption that allowed the sale of medical equipment.<sup>70</sup>

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69. R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 152; S. Landgren, *Embargo disimplemented: South Africa's military industry*, p. 206.

70. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Memorandum* from South African Ambassador, Washington, D.C. to Armscor, 21 April 1982; R. Kramer, Proposed aircraft sales to S. Africa tests new U.S. trade policy, *The Washington Post*, 16 March 1982, p. A20.

The sentiment of the Departments of State and Commerce was not shared by some other members of the US Congress. A member of the House of Representatives, Howard Wolpe, for example felt that the sale should not be approved on the grounds of the old argument that the aircraft could be utilized for military purposes. He argued that the notion placed on the table by the mentioned Departments that the aircraft did not have military utility was simply a very deceptive proposition, as they were designed to help the military and the sale would be to the South African military, who would not hesitate to use it for military purposes.<sup>71</sup>

Wolpe also chaired the House of Representatives Subcommittee on Africa. In the Subcommittees' Hearing on 30 March, which was already mentioned in Section 4.6.1, the question was raised whether the US had developed any policy of monitoring to ensure that the aircraft did not fall into the hands of the South African military or police to be utilized for purposes other than that for which the licenses were granted, i.e. ambulance aircraft. Apparently, the US Air Force aircraft that was used in the spy plane incident in April 1979 was the same model of aircraft as the air ambulances that the Reagan Administration was contemplating selling to South Africa. The Department of State representative, Dan Simpson, had no choice other than to admit that it was the same type of aircraft, which could be configured from a passenger aircraft to an air ambulance and vice versa. He immediately added that the aircraft was of a type regularly sold to South African civilian end-users with the appropriate assurance that it would not be utilized for military purposes. The Subcommittee was not at all satisfied with the answer, because the Department of State could give no assurance whatsoever that although an end-user had signed a statement that the aircraft will not be utilized for military or police use, there existed no monitoring mechanism to ensure that it did not happen.<sup>72</sup>

The Subcommittee's concern was not in vain, as could be gathered from a secret memorandum from the South African Ambassador in the US, Donald Sole, to Armscor on 21 April 1982. Sole acknowledged that in accordance with the arms embargo, it was

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71. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Congressional Record* 128(31), Senate, Resolution on export control regulations for the Middle East and South Africa, 24 March 1982.

72. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01374: *Hearing* on Enforcement of the United States arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 30 March 1982, pp. 21-22.

not possible for the US Government to supply the SADF with aircraft for any use other than humanitarian, as that would be in violation of the United Nations arms embargo against South Africa. Nonetheless, he viewed the amended export control regulations as paving the way for the Reagan Administration justifying to the US Congress that the sale of ambulance aircraft was permitted. In Sole's view, a positive decision on the application for export licenses for specialized ambulance aircraft would enable the South African Government to pressurize the Reagan Administration for further relaxations, especially since the Reagan Administration had declared it as part of its policy to normalize relations between the US and South Africa. But Sole had an even more important statement to make. He said that it had come to his attention that Beech Aircraft Corporation at least, possibly along with other US aircraft manufacturers, were studying with interest the specifications of the SADF with regard to the aircraft they would like to acquire from foreign sources. According to the printed specifications, the SADF required that the aircraft be capable of operating as Very Important Person (VIP) and Important Person (IP) transport, in a communications role and as air ambulance. In other words, the aircraft had to be convertible between transport, communications and ambulance roles.<sup>73</sup>

In September 1982, the Reagan Administration further modified the export regulations for South Africa by placing air ambulances under the exception for medical equipment, as discussed in Section 4.4. Under these new regulations, the export of six Beechcraft Super King 200C aircraft to the South African Air Force as air ambulances were finally approved in late 1982.<sup>74</sup> As one can imagine, to anti-apartheid activists this served as another example of the Reagan Administration's disregard for the arms embargo and efforts to act more lenient towards South Africa. Their dissatisfaction was further fuelled when it became known in late 1982 that the South African Government had supplied two homelands within South Africa, Bophuthatswana and Ciskei, with light aircraft that were transshipped from the US via Israel. Bophuthatswana received US-manufactured Helio-Courier aircraft and the Ciskei security forces received light aircraft

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73. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Memorandum* from South African Ambassador, Washington, D.C. to Armscor, 21 April 1982.

74. P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 29; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

from the US-based Mooney Company.<sup>75</sup> As the homelands were established under the South African Government's apartheid policy, the sales were viewed widely as a blatant violation of the arms embargo.

One example of the Reagan Administration refusing to sell aircraft to the South African Government occurred in 1984, after the South African Government had announced its intention to ground its seven aged Schackleton naval reconnaissance aircraft by the end of that year. It threatened to stop supplying the US with maritime and naval traffic information around South Africa if an application for the sale of eight Nimrod, Atlantic or Orion aircraft to South Africa were refused. The Reagan Administration however was not ruffled by the threat and merely states that it was unlikely that South Africa would be able to obtain any of the mentioned aircraft.<sup>76</sup>

#### 4.6.3 ELECTRONICS

In September 1982, the Reagan Administration had to tread water when its new regulations threatened to engulf them after the sale and shipment of 2,500 high voltage batons to South Africa became known. It was manufactured by a company called the Universal Safety Corporation based in Largo, Florida and distributed to South Africa by a firm called American International Marketing, based in New Jersey. The license for the sale to a private South African firm was approved in April 1982, shortly after the Reagan Administration announced the new export regulations vis-à-vis South Africa. According to the South African newspaper *The Natal Mercury* the South Africa recipient had confirmed that he as well as the manufacturers were fully aware of the arms embargo prohibiting the sale of shock batons to South Africa. However, the batons were being exported out of the US as cattle prods, and therefore qualified for export.<sup>77</sup>

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75. J.P. McWilliams, *Arm Scor: South Africa's arms merchant*, p. 34; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 147.
76. Arm Scor Archives (Pretoria), Sanctions and Arms Embargoes, Box 1, File 2: **Statement** by Abdul Samad Minty, Director of the World Campaign against Military and Nuclear Collaboration with South Africa before the Security Council Arms Embargo Committee, 9 April 1984.
77. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01471: **Telegram**: United States Consul, Durban to Secretary of State, 27 January 1983; Anonymous, High-voltage batons sent to South Africa, *The New York Times*, 21 September 1982, p. A5; M. Rothschild, Apartheid's baton twirlers, *The Progressive*, 16 February 1983, p. 17; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

The sale raised a storm because the batons, similar to cattle prods, were specifically designed for police use. Each baton was about thirteen inches long and gave a 3,500 (some sources say 6,000) volt shock to anyone touched by it. When the sale became known, a Congressional outburst followed. Howard Wolpe, the chairperson of the House of Representatives Subcommittee on Africa accused the Department of Commerce of contravening the human rights provision of the US law. He said that according to the US Foreign Assistance Act, licenses for the export of crime control and detection instruments and equipment to a country whose government engaged in a consistent pattern of human rights violations, might not be issued. Another member of the House of Representatives, Charles Rangel, introduced a resolution with seventy-seven co-sponsors, which condemned the Department of Commerce for what they regarded a clear contravention of US law.<sup>78</sup>

The Department of Commerce in response to the outcry said that it did not intend to grant the license, but due to a clerical oversight the license was approved. Apparently, it was a clerical oversight due to the fact that the batons were not listed as weapons in control regulations and were sold to a private firm, not the South African police. The exporters claimed that the South African firm intended to resell the batons to private security firms. The Department of Commerce furthermore contended that the sale was legal because South Africa was not listed by the Department of State as a gross violator of human rights. In defense, the Department of State replied that if consulted, it would have opposed the license. These explanations however did not bide well with many in the US. The sale was widely regarded as the latest in a series of moves by the Reagan Administration to facilitate exports of military and strategic goods to South Africa as part of its approach of constructive engagement.<sup>79</sup>

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78. Anonymous, High-voltage batons sent to South Africa, *The New York Times*, 21 September 1982, p. A5; M. Rothschild, Apartheid's baton twirlers, *The Progressive*, 16 February 1983, p. 17; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

79. Anonymous, High-voltage batons sent to South Africa, *The New York Times*, 21 September 1982, p. A5; M. Rothschild, Apartheid's baton twirlers, *The Progressive*, 16 February 1983, p. 17; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 149.

#### 4.6.4 COMPUTERS

*The Washington Post* voiced the first major concern about computer exports to South Africa under the Reagan Administration in July 1981. According to the report, South Africa was developing an air-to-air missile similar to the US Sidewinder, which was guided by a US-produced computer. The Secretary of State at the time, Alexander Haig, was questioned about the report by ACOA, but the only reply they received was that the very few details in the report made investigation of the case very difficult. Thereafter, no further word was spoken on the issue nor were there any prosecution or investigation. It only became clear in 1984 that South Africa was producing and exporting the so-called Kukri air-to-air missile that conformed to the US Sidewinder Aero 3B. This was confirmed by a report by the International Institute for Strategic Studies in their publication *Military Balance*, which stated that South Africa possessed Sidewinder air-to-air missiles.<sup>80</sup> This raised questions on how South Africa obtained the technology to manufacture the Kukri missile as well as the computer technology to guide it.

One answer to the above question might lie in US computer exports to the Armscor subsidiary Atlas and the South African CSIR, which conducted a wide range of research for the South African Government in areas like ordinance development, guided missiles, specialty metals, nuclear research and many other military areas. This was due to the fact that computer-related exports to South Africa that were previously stalled, got the go-ahead in 1982 under the new arms embargo regulations vis-à-vis South Africa announced by the Reagan Administration in March of that year. The decisions provoked lengthy debate within the Reagan Administration, with the Department of Commerce advocating looser controls and the Department of State holding out for the maintaining of certain restrictions. Nonetheless, the following sales were approved: a Sperry Univac 1182 computer to the Armscor subsidiary Atlas Aircraft corporation, an IBM 5341 computer as well as a Data General MV/8000 to the Barlow Rand Group, which had close ties with Armscor, and another Data General MV/8000 computer for the National Institute for Telecommunications Research, which was a branch of the government-controlled CSIR. Initially, the Department of State opposed the Sperry sale to Atlas, while the Department of Commerce backed it. In the end, an omission in the arms

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80. C. Murphy, Embargo spurs S. Africa to build weapons industry, *The Washington Post*, 7 July 1981, p. A12; R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, pp. 2-3.



export regulations turned the decision in favor of the sale: sales to Armscor as the government-controlled arms manufacturer were prohibited, but there was no mention of a prohibition on sales to its eleven subsidiaries, including Atlas Aircraft Corporation. Another factor that swung the decision was when the Department of State discovered that the computer was already in South Africa and that they were therefore faced with a *fait accompli*. They had no choice but to reach a compromise agreement, namely the manufacturer had to certify that Atlas would only use the computer for inventory maintenance and not for the development of any kind of military capability, and an on-site inspection by both Sperry and the US Embassy in South Africa would be undertaken.<sup>81</sup>

Another license for a powerful Cyber 170/750 computer to the CSIR was initially delayed by questions within the US military establishment about the effects of selling such a system to South Africa, as with proper programming it could have compromised US cryptographic secrets and nuclear non-proliferation goals. In other words, the computer had amazing code-breaking capabilities. The application for a license was referred to the US Sub-Group on Nuclear Export Coordination, which represented the Departments of Defense, Energy, Commerce and State. From the South African side, both the president and vice-president of the CSIR tried to speed up approval of the sale by personally assuring the Departments of Commerce and State that the computer would be used exclusively for purposes approved by the US. The sale was eventually approved, as well as the sale of another powerful computer called the Amdahl 470/V7, which also had military capabilities.<sup>82</sup>

Another example of a sophisticated computer with military use capabilities that was exported to South Africa, was one supplied by a British company called Plessey. It was a combined civil and military radar air controlled system for which South African military personnel received training in Britain to operate it. The system included a Digital Equipment computer originating from the US. The system allowed South Africa to monitor aircraft in neighboring countries and to guide its own aircraft on offensive

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81. R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, p. 3; R. Kramer, Proposed aircraft sales to S. Africa tests new U.S. trade policy, *The Washington Post*, 16 March 1982, p. A20; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157; F.J. Parker, *South Africa: Lost Opportunities*, pp. 147-148.

82. R. Kramer, Proposed aircraft sales to S. Africa tests new U.S. trade policy, *The Washington Post*, 16 March 1982, p. A20; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

missions in the Southern African region.<sup>83</sup> Still another British company, International Computers Ltd., was fined \$15,000 in March 1982 for violating the US arms embargo by supplying US-manufactured computer disk drives in two computer systems shipped to South Africa in 1978.<sup>84</sup>

In November 1983, an uproar from arms embargo activists resounded when it came to light that South Africa had attempted to smuggle a US-origin VAX computer, useful for conducting nuclear weapon tests and tracking cruise missiles, to the Soviet Union. According to the US Secretary of Defense, Caspar Weinberger, the computer was identical to a number of highly classified US systems and could be used to produce faster, more accurate and more destructive weapons. Certain parts of the computer were confiscated in West Germany, while the rest were eventually confiscated in Sweden. An investigation was immediately launched to establish how this military computer system, which should have been forbidden for export under the arms embargo, came to be exported to South Africa, and how many had in fact been acquired by South Africa and for what purpose. It was found that one computer was sold to a private company in South Africa, who rerouted it to the Soviet Union.<sup>85</sup>

By 1984, it was an accepted fact that computers were rapidly becoming the mainstay of technologically sophisticated weapons systems. South Africa in 1984 alone received \$185 million worth of computers and related software, which were more than all other countries' exports to South African combined. In 1985, a publication called the *South African Computer User's Handbook* stated that direct sales of US computers to South African arms manufacturers had persisted despite the arms embargo. In addition to the above-mentioned cases, the Handbook also stated that Mohawk Data systems equipment was used by Kentron, an Armscor subsidiary responsible for the production of guided missiles, as well as Eloptro, which specialized in military electro-optics, and Somchem, which was responsible for outfitting the SADF with propellants and

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83. R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 159.

84. Anonymous, U.S. fines British unit, *The New York Times*, 4 March 1982, p. D14.

85. Armscor Archives (Pretoria): Sanctions and Arms Embargoes, Box 9: **Report**, International Seminar on the United Nations arms embargo against South Africa, 28 – 30 May 1986, p. 9; Box 1, File 2: **Statement** by Abdul Samad Minty, Director of the World Campaign against Military and Nuclear Collaboration with South Africa before the Security Council Arms Embargo Committee, 9 April 1984; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 145.

explosives. Naschem, another subsidiary of Armscor was listed as using a Hewlett-Packard Company computer in 1982.<sup>86</sup>

#### 4.6.5 US NUCLEAR COOPERATION WITH SOUTH AFRICA

As discussed in the previous chapter, the Vela satellite incident in 1979 raised suspicions that South Africa had embarked on a nuclear weapons program. Already in late 1980, reports in the *The Washington Post* indicated that South Africa had taken significant steps in military-related nuclear-weapons research and that it had perfected a split-nozzle gaseous diffusion system by which nuclear bomb-quality uranium, uranium-235, was extracted from uranium ore.<sup>87</sup>

In early 1981, when the Reagan Administration took office, a statement by the South African Government stirred further suspicions in this regard. In the statement, the South African Government claimed that it had developed the capability to produce enriched uranium fuel elements, i.e. produce uranium-235 from uranium ore. In April 1981, the South African Government announced that it had started to use 45% enriched uranium fuel, enriched from South African made fuel elements, in its Safari I nuclear research reactor. Adding to the statement, the chairman of the South African Atomic Energy Board, Wynand de Villiers, said that 45 percent enriched uranium could be used to make a nuclear bomb, although it would be a clumsy bomb. Weapons-grade uranium was usually enriched to more than 90 percent. Despite this, the Reagan Administration from the onset sought closer nuclear collaboration with South Africa. In fact, already in May 1981 the South African Secretary of Foreign Affairs, Brand Fourie, visited the US to discuss nuclear cooperation with US Assistant Secretary James Malone. A few months later, in August 1981, a team of South African nuclear experts toured a US uranium enrichment plant under construction in Portsmouth, Ohio. In October 1981, a team of top US nuclear experts toured South Africa's uranium nuclear plant at Valindaba as part

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86. J.P. McWilliams, *Armscor: South Africa's arms merchant*, pp. 32, 35; *South African Computer User's Handbook*, p. 32.

87. C. Murphy, S. Africa powers reactor with Uranium it enriched, *The Washington Post*, 30 April 1981, p. A1.

of a discussion to reach a compromise solution of the nuclear dispute between the two countries caused by the US' refusal of nuclear fuel supplies.<sup>88</sup>

A matter of concern to some members of the US Congress was South Africa's efforts to obtain fuel to start up the Koeberg nuclear station. It turned out to be a difficult issue due to contracts concluded between the Electricity Supply Commission of South Africa (ESCOM), which was to operate the two reactors at Koeberg, and the predecessor to the US Department of Energy on 16 August 1974. The contracts were for the enrichment of South African uranium at US facilities. As a result of the contracts, ESCOM became obligated to deliver natural uranium to the US, while the Department of Energy became obligated to enrich the supplied uranium to approximately 3% or less at its enrichment facility for delivery to ESCOM. However, because the US regarded the South African nuclear activities as being unsafeguarded and therefore in violation of US law, export licenses were refused until all South African nuclear activities were subjected to IAEA safeguards and South Africa adhered to the Nuclear Non-proliferation Treaty. Despite this fact, the concern was that the Reagan Administration would at some time approve the export of enriched uranium to South Africa, short of the stated requirements of full-scope safeguards and ratification of the Non-proliferation Treaty due to the contractual situation, and that there was no guarantee that the South African Government would not use the fuel at its Pelindaba facility for the manufacturing of nuclear weapons.<sup>89</sup>

In November 1981, the Koeberg fuel issue took a dramatic turn when a French company involved in the construction of the Koeberg plant, Framatone, announced that the enriched fuel needed to start up the plant would be loaded into fuel rods that were to be shipped to South Africa. It amounted to almost 100 tons of enriched uranium. The US Department of State was furious upon learning about the transaction, as it meant that the US had lost its bargaining power in getting South Africa to sign the Nuclear Non-proliferation Treaty and agree to international inspection of its nuclear installations in

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88. F.J. Parker, *South Africa: Lost Opportunities*, pp. 151-152; C. Murphy, S. Africa powers reactor with Uranium it enriched, *The Washington Post*, 30 April 1981, p. A1; United Nations Center Against Apartheid, International Conference on Sanctions Against South Africa, 20-27 May 1981, *Report* by the Political Commission, p. 22; R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, p. 4; C. Murphy, U.S. nuclear team holds talks in S. Africa, *The Washington Post*, 22 October 1981, p. A32.

89. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, pp. 68-69.

return for enriched fuel. At first it was unclear which country had provided Framatone with the enriched fuel, but in mid-April 1982, it was established that two US firms, Edlow International and SWUCO Inc., had played a key role in South Africa acquiring the enriched fuel. After the South African Government had no luck in obtaining enriched fuel for Koeberg from the US, they made it known that they were desperate enough to pay a premium price for uranium to start up at least one of the Koeberg reactors. The two US firms captured the opportunity through buying excess uranium from Switzerland and Belgium and turning it over to two European firms to be enriched into usable fuel. The title to this usable fuel was then sold to South Africa. However, despite an outcry, the deal was not illegal, as there were no US laws that even required the firms to report the deal to the Department of State. They merely acted as brokers, bringing buyers and sellers together. To add more salt to the Department of State's wounds, ESCOM made it known after the sale that it had purchased more fuel than it actually needed because South Africa's uranium enrichment plant was scheduled to start producing enriched fuel soon. Therefore, 3,000 pounds of the uranium bought through Edlow would be sold to the US, who would then enrich it and sell it to Japan.<sup>90</sup>

In contradiction to its voiced irritation with the Framatone issue, the US Department of Commerce announced in early 1982 that the Reagan Administration would permit the export of some nuclear-related items to South Africa. This included five licenses for specific items that had already been approved in the first year of the Reagan Administration, i.e. vibration test equipment that could be used to test warheads, ballistic re-entry vehicles, a Cyber 170-750 computer capable of modeling a nuclear test site, 95 grams of Helium 3, which could be used to manufacture the substance Tritium for thermo-nuclear weapons, and a hydrogen re-combiner for the Koeberg nuclear power plant. The sale of the Helium 3, together with the sale of a hot isostatic press that could be used for making vital components for nuclear weapons, were initially held up due to congressional pressure, but was eventually approved in late 1982. The export of the hydrogen recombiner was approved because it could only be used at Koeberg to meet

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90. C. Murphy, S. Africa skirts U.S. efforts to bar nuclear fuel supply, *The Washington Post*, 13 November 1981, p. A1; F.J. Parker, *South Africa: Lost Opportunities*, pp. 153-154; T. O'Toole, U.S. firms help South Africa get Uranium, *The Washington Post*, 13 April 1982, p. A5.

health and safety objectives that were identified in an investigation into an accident in the US Three Mile Island reactor some years before.<sup>91</sup>

Also in early 1982, the issue of nuclear projectiles for the 155mm G-5 artillery system that South Africa had developed from blueprints obtained from Space Research Corporation during the Carter Administration<sup>92</sup> once again surfaced. According to an intelligence cable, the Chairman of the Armscor Board of Directors, Commandant Marais, had said in a press conference that the new G-6 high mobility self-propelled 155 mm gun that Armscor was developing from the G-5, would be in full production within four years and would be able to fire a nuclear round if necessary. However, he quickly added that Armscor had never concerned itself with the development of nuclear warheads and that the South African Government had never and did not intend in future to develop the G-5 and G-6 systems for that purpose. The issue nonetheless raised concern in the US, as the development of the G-6 was regarded as the direct outcome of a gross violation of the arms embargo.<sup>93</sup>

Due to the concerns raised, proposed Bill H.R. 7220 was placed before the House of Representatives in late 1982. The bill would have prohibited the export or transfer of nuclear material, equipment and technology to South Africa. The Reagan Administration strongly opposed the bill, because it felt that enactment thereof would significantly undermine important US nonproliferation objectives. Passage of the bill would eliminate any chance of influencing South Africa to accept full-scope safeguards. Furthermore, the US Atomic Energy Act effectively precluded significant nuclear commerce with South Africa. The only effect of the bill would therefore be to preclude export of dual-use or nuclear-related items or non-sensitive nuclear technology that was in any case widely available from non-US suppliers. Passage of the bill would only result in the transfer of trade and work from US companies to foreign firms eager and willing to supply such commodities to whoever requested it. Finally, the Reagan Administration

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91. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9: *Report*, International Seminar on the United Nations arms embargo against South Africa, 28 – 30 May 1986, p. 9; H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 67; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 158; F.J. Parker, *South Africa: Lost Opportunities*, pp. 154-155.
  92. See Chapter 3, Section 3.5.2.3, p. 152.
  93. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01429: *Cable*: United States Defense Attaché South Africa to Defense Intelligence Agency, Washington, D.C., 13 September 1982.

emphasized that US dual-use exports to South African nuclear end-users had been carefully conditioned upon receipt of assurances regarding end-use, no retransfer, and inspection rights, when appropriate. Should the bill be passed, there was a strong likelihood that non-US suppliers would provide these commodities to South Africa without such requirements.<sup>94</sup>

After numerous voices were raised about the apparent closer nuclear cooperation between the Reagan Administration and South Africa, the US Department of State issued a statement in December 1982 in order to explain the Reagan Administration's nuclear policy vis-à-vis South Africa. According to the statement, the policy was executed within the framework of a strong nuclear non-proliferation policy announced in 1981, supported by a foundation of effective export controls. The Department of State categorically stated on more than one occasion that until South Africa accepted full-scope IAEA safeguards and undertook other steps to meet the requirements of US law, no export to South Africa would be made of uranium fuel or any nuclear equipment licensed by the NRC. However, despite this policy of denial, the Reagan Administration felt the approval of exports of a few carefully selected non-sensitive, nuclear-related commodities or dual use items could assist the US in maintaining a dialogue with South Africa regarding non-proliferation issues and objectives, thereby making a contribution to the US' non-proliferation efforts. The Department of State nonetheless reiterated that the approval of this narrow range of non-sensitive exports was subject to careful case-by-case interagency review.<sup>95</sup>

The US Department of State was the heart of the nuclear export review process – under the Atomic Energy Act, it was responsible for the preparation, coordination and transmittal to the NRC of executive branch views on applications for NRC export licenses. Also under the Atomic Energy Act, the concurrence of the Department of State was required for approval of transactions such as re-transfers abroad of US-origin spent nuclear fuel for re-processing or the conclusion of an enrichment contract with a foreign country authorized by the Department of Energy. Department of State concurrence was furthermore needed for nuclear technology transfers approved by the

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94. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 69.

95. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 66.



Secretary of Energy pursuant to the AEA and for approvals of Department of Commerce licenses for export of nuclear-related and dual-use commodities.<sup>96</sup>

All Department of Commerce export license applications for items that had any actual or potential nuclear-related use were reviewed by the Department of Energy. When the end use or nature of the items in question made the lack of any proliferation significance clear, the license applications were referred back to the Department of Commerce for licensing action. In cases where it was clear that an item would present a proliferation concern, or where export would be contrary to US policy, denial was recommended and the cases referred to the Subgroup on Nuclear Export Coordination (SNEC), which was established in 1977 as a subgroup of the US National Security Council (NSC) ad hoc group on nuclear nonproliferation. In reviewing license applications for exports of items with possible proliferation concern, the SNEC took into account factors like past practice concerning supply of the commodity in question to the intended recipient country and end-user; equivalent commodities already in the recipient country and available to the end-user; foreign availability of the commodity; intelligence information regarding activities of proliferation concern in the recipient country; technical capabilities and significance of the commodity to be exported; foreign policy considerations; and lastly applicable statutory data. If SNEC determined that the proposed export involved significant proliferation risk, a recommendation for denial of export would be made to the licensing agency. If all the participating review agencies were unable to reach agreement on the disposition of a particular export application to SNEC, the matter could be referred to the NSC, the Cabinet or even the President.<sup>97</sup>

While proposed Bill H.R. 7220 was discussed right through 1983, a request from seven companies to provide an estimated \$50 million worth of technical and maintenance services for the South African Koeberg nuclear plant was approved by the Department of Commerce in September 1983. Thirty members of the US Congress recommended against approval of the export licenses in the light of the pending passage of H.R. 7220 in October 1983. The group also protested that approval of the licenses would impair US interests in black Africa, who could regard the step as US indifference to the military

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96. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 66.

97. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, pp. 66-67.

aggression of South Africa in the Southern African region. The Department of State however rejected the arguments, using the old argument of the requested services being readily available to South Africa from other nuclear suppliers. It also said that the exports did not involve the transfer of classified or sensitive information, and therefore represented no proliferation risk. In November 1983, it was announced that the US company Mobil Oil was appointed as the exclusive supplier of lubricants to the Koeberg generators.<sup>98</sup>

In January 1984, the Reagan Administration announced in triumph that the chairman of the Atomic Energy Corporation of South Africa had announced that the South African Government 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 South African Government stated that it would only transfer nuclear material, equipment and technology identified in a so-called trigger list of the nuclear suppliers' group guidelines if the recipient country agreed to place such material, equipment or technology under the safeguards of the IAEA and have assurances that such items would only be used for peaceful and non-explosive purposes. The South African Government also indicated that it was prepared to resume discussions with the IAEA to place the semi-commercial uranium enrichment plant that it was busy constructing, under IAEA safeguards. The US was invited to resume discussions on the technical aspects of the application of safeguards on such an enrichment facility.<sup>99</sup>

After the South African announcement, the US Department of State issued a statement saying that the Reagan Administration believed the announcement represented an important step by the South African Government, as the actions announced were consistent with efforts by the United Nations and other governments to develop a common nuclear supply policy in the interests of limiting the proliferation and spread of nuclear weapons. Furthermore, the resumption of South African negotiations with the IAEA offered the potential of extending the scope of IAEA safeguards to a large, sensitive nuclear facility, and the Reagan Administration had agreed to resume technical

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98. Anonymous, U.S. firms get OK for nuclear sale to S. Africa, *Los Angeles Times*, 27 September 1983, p. 12; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9, *Report*, International Seminar on the United Nations arms embargo against South Africa, 28 – 30 May 1986, p. 9; R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, p. 4.

99. Department of State, Department statement on 31 January 1984 on South Africa: Nuclear Safeguards and Exports Announcement, *Department of State Bulletin*, March 1984, p. 57.

discussions with the South African Government on the technical aspects of such safeguards. However, the South African Government still had not agreed to adhere to the Nuclear Non-proliferation Treaty or to place all its other facilities under IAEA safeguards. The US would therefore continue to make clear to the South African Government that such a step was most desirable.<sup>100</sup>

#### 4.6.6 SMUGGLING CASES

The Reagan Administration's enforcement of the arms embargo was tested early into its administration with several arms smuggling cases that surfaced. Arrests were made in two cases by the US Customs Service, the first being an attempt to supply South Africa with Bell UH-1 military helicopters and the second an attempt to export small arms to South Africa.<sup>101</sup>

##### 4.6.6.1 Bell UH-1 military helicopters

In April 1981, arms trafficking in New York City, New York, came under the increasing scrutiny of US law-enforcement officials as a result of a five-month investigation by the US Customs Service into illegal plots to smuggle helicopter gunships to South Africa. It was an undercover investigation in which no South Africans were involved. Rather, it was executed in an effort to show how New York City had become a center of illegal trafficking in weapons and military equipment, mainly because of the city's strategic location.<sup>102</sup> Although South Africans were not involved in the fake transaction, the investigation was an eye-opener to the Reagan Administration about the willingness of arms traffickers to supply South Africa with military equipment in violation of the arms embargo and US export-control laws in this regard.

The US Customs investigation into illegal conspiracies to smuggle Bell UH-1 helicopter gunships to South Africa was concluded in April 1981. The main elements in the undercover investigation involved seven helicopters, two fake South African intelligence

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100. Department of State, Department statement on 31 January 1984 on South Africa: Nuclear Safeguards and Exports Announcement, *Department of State Bulletin*, March 1984, p. 57; 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.

101. R. Leonard, *South Africa at War: White power and the crisis in Southern Africa*, p. 156.

102. Anonymous, News summary, *The New York Times*, 21 July 1981, p. B1.

officers, an informant who knew several suspected arms dealers, and a bait of \$2 million for smuggling the helicopters into South Africa. The investigation initially started as one case in 1980, but it soon blossomed into two other conspiracies. An informant started cooperating with the Customs Services in exchange for possible leniency in several criminal cases against him. The informant chose to stay anonymous in fear of his life. The informant told the Customs Service that an illicit arms dealer in New York had told him that Sky Control Inc., an aviation sales company in Sun Valley, California, had surplus military helicopters for sale. The informant then contacted Jack Holiday, the owner of Sky Control, with false information that South African Government representatives seeking to buy military helicopters were in New York. A meeting was arranged between Holiday and the informant, who described himself as a lawyer for South African intelligence officers secretly in the US to purchase military supplies, as well as an official of the Customs Service masquerading as a South African intelligence officer.<sup>103</sup>

At the meeting and in later telephone conversations, Holiday agreed to sell, presumably to South Africa, seven unarmed Augusta Bell UH-1 helicopters, which could be equipped with guns, as well as spare parts for \$2.2 million. This agreement was reached in spite of the fact that the Customs Service agent masquerading as a South African officer told Holiday that the latter would have to ship the helicopters to South Africa in violation of the arms-control law, which require an End-User Certificate from the US Department of State, i.e. an export permit specifying that the military equipment was not exported to a prohibited country. Holiday accordingly agreed to a false export permit stating that the helicopters would be delivered to a company in Sumatra, Indonesia, as equipment to ferry personnel and logging equipment.<sup>104</sup>

After the above phony agreement, the informant introduced the undercover Customs Service agents to two other persons whom he described as illegal arms traffickers. On 23 September 1980, one of them, Gideon Schiff, met with the informant and the undercover Customs agent. Schiff held Canadian and Israeli citizenship. The undercover Customs agent told Schiff that he had seven helicopters stored in California, which he wanted transported illegally to South Africa. Schiff agreed to smuggle the helicopters to

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103. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

104. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

South Africa for \$500,000. This he would have done by filing a false export declaration that would describe the helicopters as machine parts consigned to Switzerland and Portugal. After the agreement, Schiff was shown fake bank certificates of deposit as proof of the informant and undercover agent's ability to pay him. On 19 December 1980, the unsuspecting Schiff met the undercover Customs agent for the transfer of \$250,000 down payment for the deal. When Schiff was asked whether he was sure that he could get the helicopters to South Africa, even though it was illegal, he gave the assurance that there wasn't anything to worry about, as he had done it before. On this note, Schiff was arrested.<sup>105</sup>

Another person who was approached for 'delivery' of the helicopters was Omar Aly Khan, an engineer who was born in India and held British citizenship. The informant, again representing himself as a lawyer for South African military supplies purchasers, introduced Khan to the undercover Customs agent in September 1980. Khan favored meetings at various hotels in New York, where it was discussed how the helicopters could be smuggled from Los Angeles to South Africa. The conversations were secretly taped, and after three meetings, Khan agreed to arrange the shipment for a price of \$2 million. He was arrested on 17 December 1980 when he received a \$5,000 payment from the undercover Customs agent.<sup>106</sup>

The meeting and resultant telephonic conversations with Holiday were also secretly taped by the Customs Service agents and the informant and used in the resultant court case against Holiday. In December 1980, the Customs Service confiscated the helicopters in California, and in April and May 1981, criminal accusations were filed against Sky Control Inc. in the US Federal Court and against Holiday in the State court. Holiday pleaded guilty, on behalf of Sky Control Inc., to charges of conspiracy to violate export-control laws by efforts to arrange a false or cover sales agreement. The company was fined \$5,000. Holiday also pleaded guilty in the State court to a misdemeanor count of conspiracy and was given a suspended sentence. Schiff pleaded guilty in the Federal Court in Manhattan to conspiracy to violate the US export-control laws, and on 1 May 1981 was placed on probation for one year. Khan also pleaded guilty to charges

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105. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

106. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

of conspiracy to violate the export-control laws and was sentenced in April 1981 to four years probation.<sup>107</sup>

#### 4.6.6.2 The Towers and Parks case

In another case, two British arms brokers, Peter Towers and John Parks, were arrested at the Houston, Texas International Airport in May 1981. The indictment against them before a US district court in Houston was extensive. They were accused of conspiring willfully and knowingly to export items on the US Munitions List from the US to South Africa during the period of 22 April 1981 to 12 May 1981, without obtaining a license for such export from the Department of State. The conspiracy aimed at exporting approximately 1,100 M-16 automatic rifles, 100 grenade launchers, 150 pistols and 15,000 plastic M-16 magazines from the US to South Africa. They knowingly and willfully made false, fictitious and fraudulent statements resulting in an end-user certificate indicating that the arms and ammunition were destined for the Sudan. However, what they did not know was that the US Customs Service received information from a former Border Patrol agent that he had seen a false end-use certificate showing that weapons purchased from Colt Industries of Hartford, Connecticut were bound for Sudan in East Africa. As a result of the information, the Customs Service launched an investigation into the matter. Undercover Customs agents posed as arms dealers and met with Towers and Parks in the US. Towers and Parks also met with two legitimate arms dealers cooperating with the Customs Service, and presented a fraudulent end-user certificate, a purchase letter and a credit letter to the amount of \$1,3 million. The purchase and credit letters indicated that the firearms were indeed purchased from Colt Industries. (This was the second time that Colt Firearms was involved in an arms smuggling case vis-à-vis South Africa<sup>108</sup>). Accordingly, the Customs Service also asked Colt Industries for their cooperation in the investigation, to which it agreed.<sup>109</sup>

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107. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1; Anonymous, Company fined in copter scheme, *The New York Times*, 23 July 1981, p. B3.

108. See Chapter 3, Section 3.5.2.1, p. 147.

109. B. Randy, U.S. customs seizes arms headed for South Africa, *The Christian Science Monitor*, 14 May 1981, p. 1; Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Indictment*, United States of America vs. Peter Towers and John Parks, 9 June 1982, pp. 1-2; File 1/17/1, Volume 5, *Summary* of the case against Peter Towers and John Parks, 9 June 1982, pp. 1-2; Anonymous, U.S. seizes Austrian jet and arms, *The New York Times*, 13 May 1981, p. A18; Anonymous, Agents arrest 6 in \$1.2 million Houston arms sale, *The New York Times*, 14 May 1981, p. A22.

After the transaction with the undercover agents, Towers and Parks traveled from London to Houston to await the arrival of a truck loaded with the arms and ammunition from Colt Industries. The latter had, in cooperation with the Customs Service, packed the weapons in shipping crates to be transported by undercover Customs agents from Hartford, Connecticut to Houston, Texas. Towers and Parks had arranged for a Boeing 707 of Montana Austria Airlines to take on the cargo at Houston airport for export to South Africa, with a fraudulent flight plan showing a route from Houston to Khartoum in the Sudan, but with the plan to divert the aircraft in mid-air to South Africa. It later became clear that a further part of the conspiracy detailed that one of the accused would cause the flight plan to be further altered to show a route from Houston to Johannesburg with a cargo of steel fabricates. On 12 May, after the arrival of the truck, Towers, Parks and four crew members of Montana Austria Airlines attempted to load the arms on the Montana Austria aircraft, and were arrested by about two dozen Customs agents acting as the truck drivers and air terminal ground crewman. The cargo as well as the jet was seized.<sup>110</sup>

In the ensuing court case, the four Austrian crewmembers were released after it was found that they were merely manning a hired flight and had no plans to transgress US law. The aircraft was also returned to its owners. Towers and Parks pleaded guilty to charges that they had falsely claimed to be consultants for a company registered in Lichtenstein and Khartoum, Sudan, and had attempted to export \$1,3 million in arms to South Africa with false documents showing that it was purchased for use in the Sudan. They received a two-year suspended sentence each, were placed on 5 years unsupervised probation and were fined \$100,000 each. They were to pay the fine

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110. B. Randy, U.S. customs seizes arms headed for South Africa, *The Christian Science Monitor*, 14 May 1981, p. 1; Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Indictment**: United States of America vs. Peter Towers and John Parks, 9 June 1982, pp. 1-2; **Summary** of the case against Peter Towers and John Parks, 9 June 1982, pp. 1-2; Anonymous, U.S. seizes Austrian jet and arms, *The New York Times*, 13 May 1981, p. A18; Anonymous, Agents arrest 6 in \$1.2 million Houston arms sale, *The New York Times*, 14 May 1981, p. A22.



before 16 July 1982, and were prohibited to leave the US until the fine was paid. Twenty-three other counts against them were dismissed as part of a plea agreement.<sup>111</sup>

The Towers/Parks case was a direct violation of the US arms embargo regulations, and was regarded as one of the largest arms busts ever.<sup>112</sup> Nonetheless, some would argue that they were sentenced rather lightly. The fact that their court case occurred after the new arms embargo regulations vis-à-vis South Africa were announced in March 1982, resulting in a plea agreement and an arguably light sentence, lead one to conclude that it was but another example of the Reagan Administration's turn towards South Africa. On the other hand, when the discussion of arms embargo violations during the Carter Administration in Chapter 3 is recalled, it is interesting to note that despite its anti-South African rhetoric, the Carter Administration also did not convict arms embargo violators with heavy sentences.

#### 4.6.6.3 Smuggling of electronics warfare secrets

In December 1981, a young US naval electronics materiel officer, Ensign Stephen Baba, was ordered to face a general court-martial on a charge of passing electronics warfare information from his ship to the South African naval attaché at the South African Embassy in Washington, D.C. He was formally accused of mailing three classified documents to the Embassy. One document was a copy of a document called the *Electronics Warfare and Education Quarterly* published by the US Military in May 1980. The other two documents were microfilms containing key word index reports pertaining to electronics warfare. Baba admitted to sending the classified information and the South African Embassy turned the material over on demand to US Government representatives. He was sentenced to eight years hard labor by a Navy court-martial, but because of an unusual secret pre-trial agreement he only had to serve two years less time off for good behavior. He was also dismissed from the US Navy.<sup>113</sup>

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111. Anonymous, Arms smugglers admit SA connection, *Rand Daily Mail*, 19 May 1982, p. 1; Anonymous, Drie nie aangekla oor wapens, *Die Volksblad*, 20 May 1981, p. 5; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5: *Telegram*, South African Consul-General, Houston to Director-General, Foreign Affairs and Information, 8 July 1982; Anonymous, Two fined on arms charges, *The New York Times*, 9 July 1982, p. D16.

112. Anonymous, Feds get the drop on arms shipment, *The New York Times*, 17 May 1981, p. D4.

113. Anonymous, Navy officer accused of passing data, *Chicago Tribune*, 4 December 1981, p. 5; Anonymous, Around the nation: Ensign said to have sent secrets to South Africans, *The New York Times*, 18 December 1981, p. A18; Anonymous, Navy officer sentenced in security leak, *The Los Angeles Times*, 21 January 1982, p. 7.

#### 4.6.6.4 The MacNay Ltd. case

In June 1985, three British citizens went to trial on charges of conspiring with four South Africans to evade the mandatory arms embargo by setting up a dummy company that bought military components from the US and Britain in the guise of mining equipment, and exporting it to South Africa. The merchandise included components for heat-seeking missiles and a radar-jamming device. It was exported from the US to Britain between 1981 and 1984, with the connivance of four British businessmen, and then routed to South Africa, often by way of West Germany. The South Africans involved in the case set up the dummy company, called MacNay Ltd. The director of the company was a South African named William Metelerkamp. Metelerkamp frequently traveled to Britain and the US during the time mentioned to buy military equipment needed by South Africa. He furthermore used two British companies, Fosse Way Securities and one of its subsidiaries, Hi Tech Engineering Ltd. as suppliers of high-technology equipment purchased mainly from the US. The three mentioned British citizens pleaded innocent in the case but were nonetheless prosecuted. One was a principle person in helping South Africa evade the embargo, while the other two had merely subsidiary roles. The fourth Britton implicated, a director of Fosse Way Securities, earlier pleaded guilty to conspiracy in the case.<sup>114</sup> Information on the sentences they received could not be obtained.

#### 4.6.7 MILITARY VEHICLES

In 1981, reports surfaced about the US Eaton Corporation planning to enter into a joint venture with the South African Government's Industrial Development Corporation to set up a gear and axle plant for the manufacturing of components for heavy military trucks. In the same year, it was also reported that two South African companies would be producing axles of the American Rockwell Corporation, with only partial local content.<sup>115</sup>

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114. R. Moseley, Prosecutor: 3 helped S. Africa skirt arms ban, *Chicago Tribune*, 7 June 1985, p. 20.

115. R. Leonard, *South Africa at War*, p. 145.

#### 4.7 CONCLUSION

When Ronald Reagan became the President of the US, it raised South African expectations of a less rigid policy than that of the Carter Administration. This was indeed the case during the first term of the Reagan Administration, i.e. from 1981 to 1984. Many reasons were quoted for this. Among these were the foreign policy crises that had developed in Iran and Afghanistan, which threatened the US' interests in the Middle East and Southwest-Asia and the stability and territorial integrity of the Third World and non-aligned countries, as well as the global balance of power between the the US and the Soviet Union. Once again, as was the case with several US Administrations before Carter, this proved to be an important point in the framing of the Reagan Administration's policy toward South Africa. Reagan would be instrumental in events leading to the fall of the Soviet Union at the end of the 1980's, but before that could happen, the spread of communism in Africa had to be stopped. The South African Government was fiercely anti-communist, and this was a positive point for the Reagan camp. Indeed, as discussed, shortly after Reagan took office as US President, he told reporters that his Administration would place heavy emphasis on countering the spread of communism, and less emphasis on human rights, which played a major role in the foreign policy of the Carter Administration. The emphasis on countering the spread of communism in turn once again raised the question of the strategic importance of South Africa being at the southern point of Africa and its ability to aid in the protection of the sea route around this point. However, the Reagan Administration faced a dilemma in providing open support to South Africa, due to the fact that a mandatory arms embargo was instituted against that country in 1977. The Reagan Administration could not just lift the arms embargo. It would be an extremely miscalculated political step that could result in severe repercussions for the US.

Thus, the Reagan Administration faced the following dilemma: support for South Africa in order to counter the spread of communism versus being bound by a mandatory arms embargo prohibiting military support to that country. This meant that the Reagan Administration had to act slowly and with extreme caution in its support of South Africa. This was done in various ways during the first term of the Administration. Reagan usually did not hesitate to publicly voice his support for South Africa, although cautiously, and usually followed by a reiteration of the US' abhorrence of apartheid. Furthermore, the Reagan Administration adopted a policy called constructive

engagement, which it believed would position the US as a broker between the various opposing parties in the Southern African region. On the one hand, the policy would allow the US to compete with the Soviet Union in the politics of Southern Africa, while on the other hand, pressure through public and diplomatic channels would encourage change in South Africa, while at the same time communicating to people of the US the Reagan Administration's recognition of the unacceptability of the South African policy of apartheid. Constructive engagement however generally ruled out further embargoes or sanctions against South Africa.

Concerning the arms embargo, the Reagan Administration acted very slowly during its first term to make the regulations set by the Carter Administration less rigid. Several relaxations were announced, with the motivation that the regulations set in 1978 by the Carter Administration were so wide that it included items that could have been exported to South Africa without contravening US policy. Indeed, according to the US Department of State, **the new regulations represented a significant but politically less sensitive first phase in what was anticipated to be a consistent process of elimination of trade restraints with South Africa.** This was an open statement of support to South Africa, which elicited severe criticism in many US circles but excitement in especially South African military circles. The South African military establishment interpreted the relaxations as meaning that many import possibilities that were previously excluded, would now be allowed.

Interestingly, although the new regulations set by the Reagan Administration paved the way for increased grey area exports to the South African military establishment or even increased violations of the arms embargo, surprisingly few incidents in this regard occurred. However, especially in the field of computers, several exports raised questions. Although the export of computers and related equipment or software mainly fell within a grey area, there had been several instances of sensitive computer exports which one way or the other landed in the hands of South African firms or institutions involved in military research and development. One often wonders if the Reagan Administration knew about the end users of this equipment, and by concurring with the export thereof, violated the embargo. It was not always clear whether this was the case.

## 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.<sup>1</sup>

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

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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.<sup>2</sup>

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

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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.<sup>3</sup> 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 36<sup>th</sup> 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.<sup>4</sup>

## 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 558<sup>5</sup> 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

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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.<sup>6</sup>

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.<sup>7</sup>

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.<sup>8</sup> 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".<sup>9</sup>

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.<sup>10</sup>

### 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

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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.<sup>11</sup>

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.<sup>12</sup>

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

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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.<sup>13</sup>

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,

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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.<sup>14</sup>

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.<sup>15</sup>

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*

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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.*"<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup>

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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.<sup>19</sup>

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.

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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.<sup>20</sup>

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.<sup>21</sup>

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

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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*"<sup>22</sup> 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.<sup>23</sup>

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 40<sup>th</sup> 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 10<sup>th</sup> 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.<sup>24</sup>

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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.<sup>25</sup>

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

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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.<sup>26</sup>

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

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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.<sup>27</sup>

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.<sup>28</sup>

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.<sup>29</sup>

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.<sup>30</sup>

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

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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.<sup>31</sup> 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."*<sup>32</sup>

### 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"*<sup>33</sup> 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

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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.<sup>34</sup>

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.<sup>35</sup>

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-

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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.<sup>36</sup>

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.<sup>37</sup>

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.<sup>38</sup>

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

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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 control<sup>39</sup>, 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.<sup>40</sup>

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.

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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.<sup>41</sup> The rest of the 1985 regulations included those previously stipulated by the Reagan Administration<sup>42</sup>, 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

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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.<sup>43</sup>

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.<sup>44</sup>

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*"<sup>45</sup>, 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

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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.<sup>46</sup>

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

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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.<sup>47</sup>

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.<sup>48</sup>

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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”*<sup>49</sup>, 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.<sup>50</sup>

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.

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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.<sup>51</sup>

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

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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.<sup>52</sup>

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.<sup>53</sup>

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

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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.<sup>54</sup>

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.*"<sup>55</sup> 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

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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.<sup>56</sup>

### 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.<sup>57</sup>

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

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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 Massie<sup>58</sup>, 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.<sup>59</sup>

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

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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.<sup>60</sup>

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.<sup>61</sup>

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

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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.<sup>62</sup>

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.<sup>63</sup>

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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.<sup>64</sup>

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.<sup>65</sup>

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

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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.<sup>66</sup>

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.<sup>67</sup>

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

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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.<sup>68</sup>

### 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

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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.<sup>69</sup>

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

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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.<sup>70</sup>

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.<sup>71</sup>

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

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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.<sup>72</sup>

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.<sup>73</sup>

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

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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)<sup>74</sup>, which was supported by the US and adopted by consensus.<sup>75</sup>

### 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

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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.<sup>76</sup>

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.<sup>77</sup>

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

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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.<sup>78</sup>

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,

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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.<sup>79</sup>

### 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.<sup>80</sup>

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 mandatory<sup>81</sup>. 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,

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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.<sup>82</sup>

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

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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.<sup>83</sup>

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.<sup>84</sup>

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

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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.<sup>85</sup>

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.<sup>86</sup>

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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.<sup>87</sup>

#### 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.

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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.<sup>88</sup>

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.<sup>89</sup>

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,

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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?<sup>90</sup>

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.<sup>91</sup>

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

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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.<sup>92</sup>

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.<sup>93</sup>

#### **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

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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.<sup>94</sup>

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.*"<sup>95</sup> 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

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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.<sup>96</sup>

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 tests<sup>97</sup> 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

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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.<sup>98</sup>

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.<sup>99</sup>

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

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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.<sup>100</sup>

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.<sup>101</sup> 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

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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.<sup>102</sup>

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.<sup>103</sup>

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

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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.<sup>104</sup>

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.<sup>105</sup>

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.

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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.<sup>106</sup>

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

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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.<sup>107</sup>

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.<sup>108</sup> 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

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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.<sup>109</sup>

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.<sup>110</sup>

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

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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.<sup>111</sup>

### 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.<sup>112</sup>

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

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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.<sup>113</sup> 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.<sup>114</sup> 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.

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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.<sup>115</sup>

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

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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.<sup>116</sup> 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.<sup>117</sup> 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

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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.<sup>118</sup>

## 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,

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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.

## CHAPTER 6

### BUSH, THE TURN OF THE SOUTH AFRICAN POLITICAL TIDE AND THE ARMS EMBARGO, 1989 - 1992

#### 6.1 INTRODUCTION

George W. Bush, Senior, served as Vice-President of the US during both terms of the Reagan Administration. In November 1988, the Republican Party, with Bush as their presidential candidate, won the elections with an overwhelming majority. Although this implied some continuity of the US global policy, some changes were inevitable.<sup>1</sup> In the words of Bush himself: "... *my Presidency will usher in the age of the offered hand, and that applies certainly to foreign policy. I've also spoken of a new engagement. Nowhere is the need for a new engagement greater than in foreign policy.*"<sup>2</sup>

The Bush Administration could be regarded as a watershed in global politics, although many of the incidents that occurred during its term were the outflow of efforts by the Reagan Administration. Major incidents that occurred during the Bush Administration included the fall of communism in Eastern Europe and the consequent fall of the Berlin Wall, as well as the independence of Namibia. In South Africa, a major political u-turn occurred during the Bush Administration. The country had been suffering under a huge burden of sanctions since 1986. By the end of 1991, a total of 28 states within the US, 25 counties and 91 cities had taken economic action against corporations with investments in South Africa. This amounted to a \$20 billion loss for South Africa. South African business confidence collapsed, along with internal investment, and this resulted in the drop of the long-vaunted high growth rate to an average of 1.3% in the 1980's and then into negative numbers in 1990, 1991 and 1992. Concerning the arms embargo, despite many leaks in the enforcement thereof, it was still effective, forcing South Africa to pay markups of up to a hundred percent for black market arms. This left the country with outdated military equipment, particularly as far as aircraft was

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1. C.A. Crocker, *High noon in Southern Africa: Making peace in a rough neighborhood*, pp. 153, 394, 440.
  2. Bush Presidential Library (College Station). Public Papers: *Remarks* at the swearing-in ceremony for James A. Baker III as Secretary of State, 27 January 1989.



concerned. Adding to this burden was the escalating violence in the country, which now also included black-on-black violence.<sup>3</sup>

At the outset, it seemed as if the Bush Administration would be more outspoken against South Africa than the Reagan Administration. According to Herman Cohen, the Assistant Secretary for African Affairs, the basic principles that would guide the Bush Administration's policy toward South Africa were clear, i.e. its commitment to an end to apartheid and to fundamental political change, leading to a non-racial, democratic South Africa; full and strict enforcement of the Comprehensive Anti-Apartheid Act (CAAA) of 1986; the expansion of assistance to black South Africans; active US diplomacy to resolve conflicts and support economic development throughout the Southern African region; intensive consultations with especially South Africa's major trading partners and the front-line states; and closer cooperation with the US Congress on a bipartisan approach for US policy in South Africa. Nothing was specifically said about the arms embargo, but the remark on the full enforcement of the CAAA of 1986 indicated that all punitive measures against South Africa, including the arms embargo, would be strictly enforced in the hope and expectation that positive signs of a commitment to change by the South African Government would emerge in the near future. However, Cohen made it clear that the Bush Administration was not considering further sanctions at that moment, because of the fact that the South African Government under the leadership of F.W. de Klerk had indicated that it was prepared to take concrete steps to address the need for a negotiated settlement resulting in political equality for all South Africans.<sup>4</sup>

## 6.2 NAMIBIAN INDEPENDENCE AND THE ARMS EMBARGO

As discussed at various points in this study, the South African occupation of Namibia played a huge role in the institution of boycotts, embargoes and sanctions against South Africa. Many resolutions in this regard were passed over many years in the United Nations. Nonetheless, despite the arms embargo, South Africa continued to fight what they termed a communist take-over in Namibia. In their eyes, as well as in the eyes of Chester Crocker and Ronald Reagan, the war over Namibia was a geopolitical struggle between the East and West. But in December 1988, an agreement for withdrawal from

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3. J. Davis, Squeezing apartheid, *Bulletin of the Atomic Scientists* 49(9), November 1993, pp. 18 – 19.

4. H.J. Cohen, South Africa: Statement before the Subcommittee on African Affairs of the Senate Foreign Relations Committee on 3 October 1989, *Department of State Bulletin*, December 1989, pp. 29-30.

Namibia and eventual independence for the country was finally agreed upon. When the Bush Administration took office in January 1989, they were faced with seeing through this agreement. The agreement was reached after all the parties involved reaffirmed their commitment to military withdrawal from Namibia and Angola by the communist Cuban troops and the South African troops. The end agreement was a compromise: the South African troops would start to disengage in accordance with a timetable set by the United Nations, while two-thirds of the Cuban troops would leave in the first year. Thereafter, the rate of departure would slow down for six months, where after the final twelve thousand Cuban troops would leave in the final nine months of the transition to independence. The United Nations would in the meantime create a verification team, backed up by international troops that would act as a peacekeeping force, to oversee the transition to independence in Namibia. The tripartite agreement between South Africa, Cuba and Angola was signed at the United Nations headquarters in New York on 22 December 1988.<sup>5</sup>

After the tripartite agreement was signed, plans for the peacekeeping force got underway fast. There was however one last obstacle in the way: the arms embargo and trade sanctions against South Africa. African nations in the United Nations complained about plans by the United Nations to buy \$10 million worth of fuel for the peacekeeping force from South Africa, as well as leasing mine-proof armored vehicles from the SADF and purchasing many other items regarded by the African nations as being covered by the arms embargo and trade sanctions against South Africa. Therefore, the African nations felt that supplying the peacekeeping force with South African products would be a clear violation of the arms embargo and trade sanctions against that country. As a result, they blocked for almost a week the adoption of a General Assembly resolution that would send a peacekeeping force to Namibia and start the process that would lead to free elections and independence.<sup>6</sup>

The African nations encountered strong resistance from the US in particular, which insisted, along with the other permanent members of the United Nations Security Council, i.e. the Soviet Union, China, Britain and France, that the size and cost of the Namibian peacekeeping force should be cut to a ceiling of \$416 million. In keeping

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5. R.K. Massie, *Loosing the bonds*, pp. 642-643; P. Lewis, U.N. clears last hurdle to free Namibia, *The New York Times*, 1 March 1989, p. A3.

6. P. Lewis, U.N. clears last hurdle to free Namibia, *The New York Times*, 1 March 1989, p. A3.

within this budget, the Bush Administration argued that South African goods had to be bought whenever this proved to be the most economical. Many regarded this stance by the Bush Administration as an early indication that the arms embargo against South Africa would yet again be revised and relaxed. Moreover, the General Assembly's Fifth Committee, which dealt with finances, unanimously adopted a resolution approving the peacekeeping force and the budget and calling upon the United Nations to use the widest possible sources of procurement for the peacekeeping force. Although the assurance was given to the African nations that as little as possible and no lethal military goods would be bought from South Africa, it was emphasized that mine proof vehicles for the peacekeeping forces would have to be leased from that country, at least in the first stages of the mission. It was finally pointed out that the peacekeeping operation had been planned on the assumption that the United Nations would buy South African goods for the peacekeeping force when these were the cheapest.<sup>7</sup> In the light of the earlier statement by the Bush Administration, its influence in the United Nations can be clearly seen in the decision made by the United Nation's Fifth Committee.

On 21 March 1990, Namibia finally became independent from South African administration. In a statement by Bush on the same day, the independence was hailed as marking the end of colonialism in Africa and a proud beginning for the world's newest independent country. Significantly, the arms embargo and all other sanctions against Namibia were lifted by the US. It would be remembered from discussions earlier in this study that because Namibia had been under South African administration, all punitive measures against the latter also pertained to Namibia. The US immediately established diplomatic relations with the Republic of Namibia and welcomed it as a full trading partner with access to the US market.<sup>8</sup>

### 6.3 THE BERMAN AMENDMENT OF 1989

After the initial support for South Africa in the United Nations concerning provisions for the Namibian peacekeeping force, anti-apartheid legislators in the US Congress acted fast to block any further support. This came in the form of the passing of the so-called Berman Amendment of 1989 as an extension of the arms embargo controls already in

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7. P. Lewis, U.N. clears last hurdle to free Namibia, *The New York Times*, 1 March 1989, p. A3.

8. Bush Presidential Library (College Station), Public Papers: *Statement* on Namibian Independence, 21 March 1990.

place. Representative Howard Berman, who was noted for dedication to the drafting of anti-apartheid legislation, drafted the Amendment. It prohibited all US exports to the SADF and Police. There were only two exceptions: medical supplies and airport security.<sup>9</sup>

After the passing of the Berman Amendment, an official US Memorandum detailed the less visible policy guidelines on official relations between the US Department of Defense and South Africa. Thus, the main guidelines determining the arms embargo implementation of the US Department of Defense, along with all the measures instituted by the previous Administrations, were the following:

- i. Based on the US Government's 1977 embargo on the transfer of arms and military-related goods and services to South Africa, and on political guidance provided by the Assistant to the President for National Security Affairs through specific decisions on defense-orientated relationships, it was essential that no actions or statements by officials or elements of the Department of Defense presented even the appearance of a new or higher level of co-operation between the US and South Africa.
- ii. The following guidelines were not all inclusive, and were presented only as examples of the limitations currently imposed on US-South African military contacts:
  - The US Air Force Eastern Test Range Tracking Station near Pretoria was not to be used without clearance through the office of the Assistant Secretary of Defense, International Security Affairs (OASD/ISA).
  - Specially instrumented aircraft of the US Air Force and Navy designed to collect geomagnetic or satellite telemetry data, would not be staged out of South Africa without clearance through the OASD/ISA unless such use was demanded by emergency conditions and circumstances did not permit formal approval procedures.

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9. C.F. Nöffke, United States sanctions against Defense and Police, *Armed Forces*, December 1991-January 1992, p. 28.

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- US Navy ships were not allowed to use South African port facilities without clearance through OASD/ISA unless such use was demanded by emergency conditions and circumstances did not permit formal approval procedures.
- South Africa was not eligible to participate in any phase of the US Security Assistance Program involving material or training, grants, credit or sales.
- An embargo had been placed on the export of all US original commodities and technical data to South African armed forces or police entities.
- Commercial sales of military-related items to South African civilian buyers were subject to close scrutiny by the Departments of State and Commerce. This restriction included spare parts that may have been provided for under pre-1977 sales contracts. The object was to preclude the possibility that any sales by a US firm would lead directly to an increase in South Africa's military or paramilitary capabilities.
- South African citizens, military or civilian, were not allowed to be enrolled in any US military school or course, either as resident or correspondence students, neither were they allowed to be enrolled in any student or correspondence course supported by US Department of Defense elements, such as those offered by the US Civil Preparedness Agency for civilians representing friendly countries. This included the passing of information.
- Invitations from representatives of the South African Government in the US to attend ceremonies, dinners, receptions, cocktail parties or similar official or semi-official functions were not to be accepted by persons above the rank of Brigadier-General or Commodore, i.e. rank O-7 or the civilian ranks GS 5 – GS 16.
- Letters of congratulations and similar correspondence, such as might be send routinely to senior counterparts in a friendly country on national holidays, were not allowed to be send to South African officials without clearance through OASD/ISA.

- Financial, logistic or other support was not to be provided for any international sporting event without prior clearance through OASD/ISA if South African citizens were expected to participate in the event. Similarly, the US Department of Defense would also not fund official travel for US participants in a sporting event if South Africans were expected to take part. The private, individual participation by a serviceman on leave, who traveled at his own expense, would not require official clearance, but should not be encouraged.
- Research and other contracts between US Department of Defense elements and civilian forms or institutions were not to involve cooperation with the South African Government or contracts between Department of Defense personnel and South Africans without clearance through OASD/ISA.
- It was stressed that, since all contingencies could not be covered in the memorandum, action officers should not hesitate to contact the OASD/ISA for specific guidance.<sup>10</sup>

In the wake of the strict US regulations against South Africa ranging over eleven years already, political reforms in South Africa was deemed imminent, and it indeed started to happen during 1989, as will now be discussed.

#### **6.4 POLITICAL REFORM IN SOUTH AFRICA – A GOAL LONG SOUGHT**

The resolution of the Namibian conflict was globally hailed as a victory against the South African Government. In South Africa, in the meantime, a large percentage of the White electorate was losing their confidence in State President P.W. Botha's ability to lead the country forward. The majority of his actions over the years, including the suppression of anti-apartheid organizations, the press restrictions, piecemeal reforms, the crafting of a new, precarious constitution, a combination of tough and conciliatory talk, and his heavy-handed use of security forces, together pointed to a lack of vision. The arms embargo, in conjunction with a heavy sanctions package and internal violence,

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10. C.F. Nöffke, United States Sanctions against defense and police, *Armed Forces*, December 1991-January 1992, pp. 28, 31.

was dragging South Africa down. To couple that, Soviet President Mikhail Gorbachev, led the Soviet Union out of regional conflicts and paved the way for the collapse of communism in Eastern Europe and the Soviet Union. This deflated South Africa's role in the global anti-Communist struggle – a carrot that was always dangled before the noses of the various US Administrations in an effort to block any criticism or punitive measures. The South African National Party Government thus faced a dire crisis, and doubt reigned about what to do next. However, P.W. Botha remained as adamant and fierce as ever to remain in power.<sup>11</sup>

In mid-January 1989, the South African news broadcast agency announced in a terse statement that Botha had suffered a mild stroke. Six days after the stroke, Botha announced that he would not be replaced as state president. He did however relinquish his leadership of the National Party to the very conservative F.W. de Klerk, whose election as National Party leader would prove to be a major turn in the tide of South African politics, eventually leading to majority rule in South Africa. But before this could happen, a power struggle between Botha and De Klerk first had to be resolved. They first differed in opinion over the date of the next elections and the propriety of De Klerk traveling abroad to represent South Africa. Also, just five weeks after De Klerk's election as National Party leader, Botha announced that he was considering running for another term as State President after the 1990 elections. This caused a storm within the National Party, followed by a unanimous vote by the parliamentary caucus for Botha to quit. He again refused, but later reluctantly agreed to advance the national elections from 1990 to September 1989.<sup>12</sup>

Meanwhile, domestic and international demands on De Klerk to take more dramatic steps were increasing. Domestic demands came from a new political entity, the Democratic Party, which brought together the members of the Progressive Federal Party, other smaller groups and a host of Afrikaners who were previously members of the National Party. In addition, a renewed call for sanctions by South African anti-apartheid activist Desmond Tutu, who enjoyed access to the highest reaches of US political power, was heard. International pressures included the arms embargo and trade sanctions, which had resulted in the steady outflow of US corporations from South Africa. In April 1989, a new shock hit the country when Mobil Corporation decided to

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11. R.K. Massie, *Loosing the bonds*, pp. 647-648.

12. N. Mandela, Long walk to freedom, p. 536; R.K. Massie, *Loosing the bonds*, pp. 650-653.



sell out to Gencor, the second largest mining corporation in South Africa. All these pressures again underlined the failure of Botha to win international approval for his so-called reforms. De Klerk started to fill the gap by visiting Western world leaders, except Bush, who denied a meeting at the last minute. The message to De Klerk was clear from every leader he visited: it was time to release Nelson Mandela and start negotiations with the ANC.<sup>13</sup>

Botha now started to realize that his control over the National Party and the South African Government was rapidly crumbling. In an effort to recapture the political initiative, he invited Mandela to a secret meeting on 5 July 1989. It proved to be a remarkable moment in history – the man who had spent his entire career attempting to destroy the ANC was meeting the ANC's greatest hero at his official government office. A few days later, Botha made a public announcement of the meeting, which momentarily stunned the South African nation, but did not restore his authority. Within a month after the meeting, yet another battle ensued between Botha and De Klerk over a proposed foreign trip by De Klerk to Zambian President Kenneth Kaunda, who continued to press for negotiations between the South African Government and the ANC. Botha furiously objected that the leader of the National Party could not travel to the city in which the ANC had its headquarters. A showdown cabinet meeting followed and De Klerk urged Botha to resign graciously as State President. On 14 August 1989, a raging and resentful Botha announced his resignation on national television, placing the blame for that on the members of his cabinet. He accused them of a breach of trust, of ignorance and of playing into the hands of the ANC. De Klerk was sworn in as Acting State President the next day. With three weeks to go before the general election, he launched into an aggressive campaign for the National Party. He proclaimed that the National Party was committed to a five-year action plan that would allow every South African citizen the right to participate at all levels of government, and to prevent domination by any groups over another.<sup>14</sup>

The general election took place on 6 September 1989, from which the National Party emerged with an overwhelming victory. State President De Klerk immediately introduced a mix of symbolic and substantive reforms: the police were ordered to stop using whips on protesters; the first legal permission in decades for large outdoor protests were

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13. R.K. Massie, *Loosing the bonds*, pp. 653-655.

14. N. Mandela, Long walk to freedom, pp. 538-540; R.K. Massie, *Loosing the bonds*, pp. 655-656.

granted; and the remnants of the notorious Koevoet brigade were confined to their quarters. In addition, Walter Sisulu and all the remaining Rivonia high treason trial prisoners were released, with the exception of Mandela, and ANC supporters were even permitted to hold a huge welcome-home rally for Sisulu and the others in a soccer stadium in Soweto. In November 1989, De Klerk announced that the thirty-six-year-old Separate Amenities Act would be scrapped. The Act had enforced segregation on the beaches and in parks, theaters, restaurants and other public facilities. Shortly afterwards, the National Security Management System was shut down and political control were restored to civilians in the National Party. This was followed by a meeting with Mandela on 13 December 1989 to discuss the future of South Africa.<sup>15</sup> The turn of the tide was now unstoppable.

In early 1990, De Klerk continued upon the new path. On the opening day of the South African parliament, i.e. 2 February 1990, he described the elections of September 1989 as a mandate for drastic change. He promised to make negotiation the highest priority of his government in the months to come, with the goal of creating a totally new and just constitutional dispensation in South Africa in which every citizen would enjoy equal rights, treatment and opportunity in the constitutional, social and economic spheres. With this, De Klerk moved away from the so-called 'laager mentality' which white South Africans, particularly the Afrikaners, were often accused of, especially when he insisted that South African could not go it alone, as his predecessors had continuously claimed. He had a long list of commitments for reforms, ranging from the reincorporation of the independent homelands to an end to the state of emergency as soon as circumstances justified it. But his most momentous announcements were the lifting of the thirty-year-old-ban on the ANC and the South African Communist Party (SACP), as well as all media restrictions and restrictions on the United Democratic Front (UDF), COSATU and 31 other organizations.<sup>16</sup> Lastly, he broke the news that many were waiting for in South Africa and overseas: "*The government has taken a firm decision to release Nelson Mandela unconditionally, a decision that would be brought to finality without delay*".<sup>17</sup> Mandela was accordingly released on 11 February 1990.<sup>18</sup>

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15. R.K. Massie, *Loosing the bonds*, pp. 656-657.

16. N. Mandela, Long walk to freedom, pp. 538-540; R.K. Massie, *Loosing the bonds*, pp. 658-660.

17. As quoted in R.K. Massie, *Loosing the bonds*, p. 659.

18. R.K. Massie, *Loosing the bonds*, p. 660; N. Mandela, Long walk to freedom, pp. 551-552.

De Klerk's announcements encompassed the majority of the demands that were placed before the South African Government over many years with the view of ending apartheid. It was now up to the world, and the US in particular, as the biggest institutor of sanctions against South Africa, to decide if it was acceptable or not. The Bush Administration's response and the influence of the reforms on the arms embargo will now be discussed.

#### **6.4.1 THE BUSH ADMINISTRATION'S RESPONSE TO THE POLITICAL REFORM IN SOUTH AFRICA**

The Bush Administration reacted to the events in South Africa for the first time in September 1989. According to a senior government official, the Bush Administration was increasingly optimistic that De Klerk, who was now the State President of South Africa, genuinely intended to end apartheid in South Africa. In the view of the Bush Administration, De Klerk ran on a platform of dismantling apartheid, which was very constructive. The Bush Administration was of the opinion that De Klerk had to be given time to implement his proposed reforms, and the possibility of the lifting of sanctions when these proposed reforms were backed by concrete action, might just be an incentive for De Klerk to continue upon that path. More specifically, according to a US spokesperson, the CAAA of 1986 was specifically imposed to protest South Africa's apartheid policy, but it did authorize selective lifting of the restrictions if conditions changed. Therefore, if De Klerk released Mandela and other political prisoners, lifted restrictions on black political activity and opened a dialogue with black leaders, the Bush Administration would certainly authorize selective lifting of some CAAA restrictions. Such a relaxation would send a clear signal to the rest of the world that the US was ready to consider South Africa's readmission to the international community.<sup>19</sup>

But not everyone in the US political establishment was as eager as the Bush Administration to go lighter on South Africa. Many lawmakers in the US Congress were suspicious of De Klerk's intentions and appeared ready to consider even tougher measures unless he moved promptly to open up the South African political system. Howard Wolpe and Paul Simon, chairmen respectively of the House of Representatives and Senate Subcommittees on Africa, spoke on behalf of these skeptics when they said

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19. N. Kempster, U.S. may ease sanctions if De Klerk acts on reforms, *Los Angeles Times*, 23 September 1989, p. 1.

that they were willing to grant De Klerk a few months to show his good faith by releasing political prisoners and rescinding an order banning the ANC and other political organizations. They however immediately reiterated that there was a limit to congressional patience, therefore, if by 1 February 1990 the promised reforms were not in place, harsh new sanctions legislation would start moving through the US Congress. According to Wolpe, it would be foolish to relax sanctions immediately, because in his view, the only reason the South African Government was starting to sound a reform tongue was because of the cumulative pressures that were building both inside the society and as a result of actions by the international community.<sup>20</sup>

On 12 February 1990, Bush was questioned about his policy toward South Africa in the light of the reforms that De Klerk had by that date implemented. He was specifically asked whether the release of Mandela the previous day and the steps announced by De Klerk in any way altered his views concerning the US arms embargo and economic sanctions towards South Africa. Bush answered that he did not think that all the change in South Africa could be attributed to the sanctions against the country. Nonetheless, although in his opinion some of the sanctions were counterproductive, by US law they had to remain until the South African Government had taken certain predetermined steps. Bush was then asked whether he would be willing to push for the lifting of any of the sanctions before all of the conditions set forth by law were met. Bush reiterated that he would not be able to do that, even if he wanted to, because he was bound by the law. But what he planned to do was to discuss the conditions with both De Klerk and Mandela, whom he had invited to the US for consultations.<sup>21</sup>

When Bush's answers to the questions during the press conference are studied, it seems that he was treading lightly and answered cautiously and with few details. It was perhaps because of being part of the Reagan Administration, he had experienced the wrath of the US Congress when they overruled Reagan's veto of the CAAA of 1986. All he ventured to say further was that De Klerk's impending visit to the US evidenced the fact that the Bush Administration saw in him a new brand of leadership, i.e. a man who was making drastic changes in South Africa. The release of Mandela was regarded as a very positive sign, and although many things remained to be done, the reforms that he

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20. N. Kempster, U.S. may ease sanctions if De Klerk acts on reforms, *Los Angeles Times*, 23 September 1989, p. 14.

21. Bush Presidential Library (College Station), Public Papers: *The President's News Conference*, 12 February 1990.

had instigated deserved the support and appreciation of the US. Bush was of the opinion that the steps that De Klerk was taking were moving South Africa down the road towards racial equality. However, he first wanted to speak with De Klerk before saying anything further about maybe lifting some sanctions.<sup>22</sup>

In another press conference a month later, Bush was again questioned on his position on sanctions against South Africa. Bush reiterated that US law required him to keep the sanctions until certain conditions were met. This had been made very clear to the South African Government. In the meantime, the US Secretary of State, James Baker, had embarked on a dialogue with De Klerk as well as Mandela and other leaders of the ANC. Nonetheless, Bush did not think that the time was ripe yet to change the US' policy on sanctions. In fact, some new legislation that would add to the sanctions package was being introduced in the US Congress by Ron Dellums. However, Bush did not think that Dellums would press the legislation, as a bipartisan Congress delegation that had visited South Africa was much impressed with what they heard from both De Klerk and Mandela.<sup>23</sup>

In June 1990, De Klerk announced the lifting of the state of emergency in South Africa, except in the province of Natal. The Bush Administration viewed it as another significant step toward creating a climate conducive to negotiations that would lead to a democratic, nonracial South Africa. However, although it built on earlier decisions by De Klerk to release Mandela and certain other political prisoners, as well as to permit free political debate to take place in South Africa, it was still not deemed enough to lift the arms embargo or the economic sanctions against the country. In the view of the Bush Administration, much work remained to be done by all sides in South Africa, e.g. resolving the issue of the remaining political prisoners, transforming the continuing climate of violence and intimidation, and ending the senseless killings in Natal. Nonetheless, the Bush Administration declared it was most encouraged by the remarkable progress that had been made, especially because with the latest move, the

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22. Bush Presidential Library (College Station), Public Papers: *The President's News Conference*, 12 February 1990.

23. Bush Presidential Library (College Station), Public Papers: *The President's News Conference*, 23 March 1990.

South African Government had met almost all of its opposition's requirements to move into negotiations.<sup>24</sup>

#### 6.4.2 THE MANDELA-BUSH MEETING

On 20 June 1990, Mandela arrived in the US. Bush was yet again asked at a media conference what he was going to tell Mandela concerning the sanctions question. He was also asked about reports earlier that the CIA was involved in the process that led to Mandela's arrest in early 1962, and whether he was planning to apologize for that on behalf of the US Government and American people. Bush answered that he would take his leadership on the latter issue from Mandela himself, who had put it very well when he said that 'let bygones be bygones'. Concerning the first question, Bush again reiterated that he still could not lift the sanctions against South Africa under the existing US law. However, he looked forward to talk to Mandela about it.<sup>25</sup>

Bush and Mandela met on 25 June 1990. In his opening statement, Bush described Mandela, who had spent 27½ years in prison for political offences, as a man who embodied the hopes of millions of South Africans. But he also praised the South African Government under De Klerk for the steps it had taken to expand the rights and freedom of all South Africans. Bush called apartheid repugnant, but added that all sides in the South African political struggle should renounce violence and repression. When it was Mandela's turn, he politely but firmly noted that he could not completely renounce the use of violence and armed struggles to achieve racial equality in South Africa. According to him, when a repressive government intensified oppression, the oppressed people had no alternative but to resort to violence. He nevertheless made it clear that the ANC would cease its hostilities once the South African Government had accepted all conditions for negotiations on a new constitution. In fact, the ANC had already scaled down on military operations since 1986 in an effort to promote negotiations. For these negotiations to start, the South African Government had to release a thousand political prisoners, return 20,000 political exiles, repeal repressive legislation and end the state of emergency in the Natal province. Mandela was optimistic that these obstacles would

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24. Bush Presidential Library (College Station), Public Papers: **Statement** by Deputy Press Secretary Glen on the termination of the State of Emergency, 7 June 1990.

25. Bush Presidential Library (College Station), Public Papers: **The President's News Conference in Huntsville, Alabama**, 20 June 1990.

be completely removed at his next meeting with De Klerk, with the exception of the legislation repeal.<sup>26</sup>

Turning to the issue of sanctions, Mandela urged Bush to maintain the arms embargo and other sanctions against South Africa, because it was as a result of these measures that such enormous progress had been made in the attempt to address the problems of South Africa. Bush assured Mandela that none of the measures would be lifted until all the conditions set by the US Congress for doing so were met. This included the complete lifting of the state of emergency and the release of about a thousand political prisoners. He said that the sanctions were designed to support change, and only when the mentioned conditions were met, would the Bush Administration, in consultation with the US Congress, consider whether a change in course would promote further progress through peaceful negotiations.<sup>27</sup>

Mandela's visit to the US was followed in August 1990 with an announcement of a cease-fire between the ANC and the South African Government. The announcement was welcomed by the Bush Administration, who said it was very encouraging. Bush congratulated both parties for having made this important step forward. He voiced his hope that the step would facilitate the process of dialogue to bring an end to apartheid.<sup>28</sup>

#### 6.4.3 THE DE KLERK-BUSH MEETING

Three months after Mandela's visit to the US, it was De Klerk's turn. He met with Bush on 24 September 1990. According to Bush, it was an extraordinarily useful meeting in which De Klerk described in detail what he was trying to accomplish in South Africa, namely the process of ending apartheid and negotiating a new political reality for the future. Bush described it as a very promising, but sometimes difficult situation, especially in the light of the ongoing violence. Nonetheless, the Bush Administration

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26. Bush Presidential Library (College Station), Public Papers: *Remarks* prior to discussions with Nelson Mandela, 25 June 1990; M. Dowd, Mandela declines to rule out force, *The New York Times*, 26 June 1990, p. A1.
  27. Bush Presidential Library (College Station), Public Papers: *Remarks* prior to discussions with Nelson Mandela, 25 June 1990; M. Dowd, Mandela declines to rule out force, *The New York Times*, 26 June 1990, p. A1.
  28. Bush Presidential Library (College Station), Public Papers: *Statement* by Press Secretary Fitzwater on the cease-fire between the African National Congress and the Government of South Africa, 6 August 1990.



recognized that De Klerk was courageously trying to change things for the better in South Africa. Whereas there had been many instances worldwide where the culture of political violence overwhelmed the culture of dialogue, the opposite was finally happening in South Africa. Also, De Klerk assured Bush that he agreed with the principle of equal opportunity for all. Bush then stated categorically that the time had come to encourage and assist the emerging South Africa, but he clearly did not mean the immediate lifting of sanctions as part of this assistance. He stated that although his Administration believed that the process of change in South Africa was irreversible, all the conditions in the sanctions legislation had not yet been met. Although the goal of the US was to support the process of change in South Africa, it had to be emphasized that the conditions in the sanctions legislation were not open to reinterpretation, and furthermore, he did not believe in moving the goalposts.<sup>29</sup>

De Klerk in turn agreed with Bush that the process taking place in South Africa was indeed irreversible. He committed himself to negotiations, saying that from the negotiations would come about a new constitutional situation that would offer full political rights within the framework of internationally acceptable definitions of what democracy really was. In other words, there would be a vote of equal value to all South Africans, and a new constitutional and economic dispensation that would offer equal opportunities and full democratic rights to all its people. Concerning the use of the South African security forces in curbing the violence in South Africa, an issue that had led to many international outcries and played a major role in the institution of the mandatory arms embargo in 1977, De Klerk noted that one of the stumbling blocks in the way of bringing about fundamental change in South Africa was the problem of volatility that sometimes erupted into violent situations that were totally unacceptable. Consequently, steps were taken in an impartial manner. Through the use of the security forces, the violence was curbed in many instances. It was hoped that the same would soon be true in the Natal province, where the state of emergency was still in operation.<sup>30</sup>

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29. Bush Presidential Library (College Station), Public Papers: **Remarks** following discussions with State President F.W. de Klerk of South Africa, 24 September 1990.

30. Bush Presidential Library (College Station), Public Papers: **Remarks** following discussions with State President F.W. de Klerk of South Africa, 24 September 1990.

#### 6.4.4 THE END OF US ECONOMIC SANCTIONS

In October 1990, less than a month after his meeting with Bush, De Klerk announced the end to the state of emergency in the Natal province. The move was welcomed by the Bush Administration, who regarded it as yet another important landmark on the road toward full normalization of political activity in South Africa. But, although this was one of the conditions set by Bush before the lifting of sanctions could be considered, such a move was not yet considered. Indeed, by March 1991 the US still had not moved to lift some of the sanctions against South Africa, possibly also because Mandela was urging the Bush Administration not to do so until all the conditions in the CAAA of 1986 were met.<sup>31</sup>

In April 1991, the European Community (EC) decided to lift its sanctions against South Africa, except the arms embargo. The US however still did not follow suit. In a statement a few weeks after the EC's step, the US Assistant Secretary for Africa, Herman Cohen, emphasized strongly the necessity of providing economic assistance to South Africa to ensure that not only the reform process, but also the new South Africa that was now emerging, would be a success. Therefore, the US would adhere to the stipulations in the CAAA of 1986 as soon as South Africa had adhered to all the legal requirements. The South African Government had already fulfilled three of the five legal requirements for lifting of sanctions stipulated, but it was still not enough. Cohen also emphasized that even if the CAAA sanctions were lifted, certain measures would remain in place, i.e. the arms embargo, exports to the South African Police and Military, and the US' veto of IMF loans to South Africa.<sup>32</sup> This statement led to the following reaction from the editor of the South African newspaper *Beeld*: "*Die Suid-Afrikaanse regering het sy uiterste gedoen om te hervorm. Daarvoor het hy 'n prys betaal, maar tensy hy verhinder word, sal hy binnekort voldoen aan al die vereistes wat in die CAAA gestel word. Nou blyk dit dat selfs dit nie die VSA tevrede sal stel nie en dat die pistool steeds*

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31. Bush Presidential Library (College Station): Public Papers: **Statement** by Press Secretary Fitzwater on the lifting of the State of Emergency in Natal, 18 October 1990; Public Papers: **Statement** by Press Secretary Fitzwater on the President's telephone conversation with Deputy President Nelson Mandela of the African National Congress, 18 March 1991.

32. Anonymous, Dié sanksies teen SA geld steeds na EG se besluit, *Beeld*, 17 April 1991, p. 15; F. Swart, Mandela moet na beraad oor geweld, vra VSA, *Beeld*, 1 May 1991, p. 1; H.J. Cohen, Status report to the House Subcommittee on Africa on US sanctions on South Africa, *Department of State Dispatch* 2(18), p. 325.

*teen ons koppe sal bly. Die vraag is of Suid-Afrikaners ná dié ervaring ooit weer gretig sal wees om met so 'n venoot sake te doen.*"<sup>33</sup>

In June 1991, Bush set the wheels for the lifting of economic sanctions against South Africa in motion when he requested Cohen to consult with leaders in the US Congress over strategies to lift the sanctions. The consultations would mainly center on how many sanctions had to be lifted in a first step. Cohen however did not face an easy task, because many in the US Congress still felt that it was not time yet for the sanctions to be lifted. One particular opponent, Edward Kennedy, even indicated that he would consider legal steps against Bush if the latter moved to lift sanctions unilaterally. According to Kennedy, there was a strong difference in opinion with the Bush Administration's interpretation of the sanctions legislation. Although De Klerk definitely earned praise for the steps he had already taken, in Kennedy's opinion only one of the five requirements in the CAAA of 1986 had been met, and not three as Bush maintained. Furthermore, Bush was hoping to avoid any Congressional challenge by lifting the sanctions after determining that all five stipulations had been met. If he eliminated sanctions on the basis that four or five of the conditions had been met, the Congress would have thirty days to challenge that action.<sup>34</sup>

On 10 July 1991, Bush signed an Executive Order terminating the US' economic sanctions against South Africa. According to Bush, the Department of State had advised him that with the release of all political prisoners by De Klerk in recent weeks, South Africa had met all five conditions laid down by the CAAA of 1986. The Executive Order however also stipulated several other separately legislated US sanctions would remain in force, i.e. the mandatory arms embargo, a ban on all exports to South Africa's military and police, a ban on all intelligence sharing, and limitations on South Africa's lending

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33. As quoted in Anonymous, Venynige venoot (Editorial), *Beeld*, 2 May 1991, p. 14. (English translation from original Afrikaans: "The South African Government had done its utmost to reform. For that it has paid a price, but unless it is prevented, it would adhere to all the requirements stipulated in the CAAA. But now it seems that even that would not satisfy the USA and that the gun would still be held against our heads. The question is whether South Africans, after this experience, would ever again be eager to do business with such a partner").

34. F. Swart, Kennedy skop teen Bush se plan om sanksies te los, *Beeld*, 20 June 1991, p. 2; N.A. Lewis, Bush signals readiness to lift all South African sanctions, *The New York Times*, 21 June 1991, p. A3.

from the IMF. Nonetheless, controls on certain exports to South Africa of computers, aircraft and petroleum products were lifted.<sup>35</sup>

Thus, the almost five-year saga of economic sanctions against South Africa came to an end in 1991, but South Africa still had to contend with far-reaching restrictions in the military field. Many activities from the South African side to obtain the military equipment and technology it needed to counter the arms embargo were made public during the Bush Administration – in fact, much more cases became known during this Administration than was the case with the previous Administrations since 1977. As will be seen in the discussion from this point onwards, South Africa was very active in the military field despite the arms embargo – one might say ‘the proof of the pudding is in the eating’, but it will also be realized that the Bush Administration had a very strict approach to the implementation of the arms embargo. One of the cases was so far-reaching that it rolled over far into the Clinton Administration, with dire consequences for some South African firms and individuals. A possible reason for the strict approach of the Bush Administration was perhaps because of Mandela’s urgings not to lift sanctions against South Africa all at once, but in three phases linked to a political process ending white rule. He asked for the arms embargo to be lifted last of all, and only after South Africa finally elected a majority government on the basis of a new and fully democratic constitution<sup>36</sup>.

## 6.5 ARMS EMBARGO VIOLATIONS OR BUSTING DURING THE BUSH ADMINISTRATION

### 6.5.1 CLAIMS OF SOUTH AFRICAN CHEMICAL WEAPONS

For the first time since the institution of the arms embargo in 1977, the issue of possible South African involvement in acquiring chemical weapons rose to the surface in 1989. It happened when a report by the US Arms Control and Disarmament Agency named South Africa as one of 20 countries suspected of attempting to acquire chemical

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35. Bush Presidential Library (College Station): Public Papers: *Executive Order 12769*, Implementation of Section (a) of the Comprehensive Anti-Apartheid Act, 10 July 1991; *Remarks* on the termination of economic sanctions against South Africa and a news conference, 10 July 1991; *Message* to the Congress transmitting a report on export controls, 17 October 1991; T.L. Friedman, Bush lifts a ban on economic ties to South Africa, *The New York Times*, 11 July 1991, p. A1.

36. P. Lewis, Mandela, at U.N. urges phased end to sanctions, *The New York Times*, 4 December 1991, p. A9.

weapons. According to the report, only four countries had that far confirmed possession of chemical weapons or the means to deliver them, namely the US, the Soviet Union, Iran and Iraq. The report further stated that the race to achieve chemical weapons had resulted in the most explosive growth in weaponry in the Third World. Furthermore, another disturbing trend was the proliferation of ballistic missiles that could be fitted with chemical warheads. Lastly, chemical weapons were relatively inexpensive and did not require sophisticated manufacturing methods, while, in addition, the chemicals required for poison gas usually also had legitimate industrial uses. Armscor's reaction to the report was not one of denial. Instead, a spokesman for the company said, when it was claimed that chemical weapons were being used against Unita in Angola, Armscor decided to investigate defensive countermeasures, which included protective clothing and a positive internal pressure and filter system in the Rooikat armored vehicle.<sup>37</sup>

If it was indeed true that South Africa had possession of chemical weapons, it would have constituted a breach of the arms embargo. Furthermore, what should have worried the Bush Administration was the possibility of fitting ballistic missiles with chemical warheads, especially in the light of the evidence of South African development of ballistic missiles that came to light from 1989 onwards.

## **6.5.2 SOUTH AFRICAN DEVELOPMENT OF BALLISTIC MISSILES**

### **6.5.2.1 The Israeli connection**

The Bush Administration's approach to the arms embargo was tested six months into the administration when rumors abounded about South Africa being ready to test a ballistic missile. According to information leaked to a newspaper by US intelligence agents in June 1989, South Africa, in cooperation with Israel, was about to test a new intermediate-range ballistic missile at the De Hoop testing range in the Overberg in the Southern Cape. The missile was suspected to be a modified version of the Israeli Jericho II, and had been under development since at least 1987 as a joint project of Israel and South Africa. The Jericho II was designed to place satellites in orbit and had a possible maximum range of 1 240 km. Furthermore, the test facility at De Hoop, where a number of South African-manufactured missiles had already been tested, was identical

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37. Anonymous, Claims of SA chemical weapons, *The Pretoria News*, 21 November 1990, p. 7.

to an Israeli test launch site in the Negev Desert, from where Israel had launched its first surveillance satellite in September 1988. This further indicated close cooperation between Israel and South Africa in missile development.<sup>38</sup>

If Israeli assistance to South Africa was indeed true, it would have constituted a direct violation of Israel's promise to the Reagan Administration in 1987. As discussed in Chapter 4, after the CAAA of 1986 was passed, the US Congress required a report from the Reagan Administration on countries violating the mandatory arms embargo with a view of ending all US support to those countries. In the report delivered to Congress by the Reagan Administration in April 1987, Israel was specifically indicated as one of the countries that still cooperated with South Africa in the military field. In fear of losing its major support from the US, especially in the military field, the Israeli Government already in March 1987 announced that it would not sign any new military sales contracts with South Africa and that it would end all military cooperation with South Africa by 1991. This assurance led to a decision in the US Congress that the cutting of US aid to Israel was not a realistic proposal. This was good news for Israel. Not long afterwards, the alleged joint cooperation with South Africa on the mentioned ballistic missile started. This implied that a new contract had been signed between the two countries, which was a clear violation of Israel's 1987 promise to the Reagan Administration.

It would seem that the Bush Administration, like its predecessor, also did not wish to alienate Israel because of its military cooperation with South Africa. Indeed, when asked for comments on the missile-testing rumors and Israeli involvement in the matter, a Bush Administration official downplayed the possible role of Israel. The official did not confirm the rumor outright, but said that South Africa on its own had very significant capabilities for technical development. Another Bush Administration official in the Department of State in turn said that the Administration would not comment on intelligence matters, but nonetheless offered a slight hint of concern when he said that the Administration was concerned about missile proliferation and was following the related activities of all countries, including South Africa. Yet another official indicated that an intermediate-range missile would have a range of approximately 1 300 km,

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38. Anonymous, SA 'to launch space rocket', *The Cape Times*, 21 June 1989, p. 1; Anonymous, Cape missile test soon, says US, but Armscor keeps quiet, *The Argus*, 21 June 1989, p. 3; Anonymous, Armscor tests Cape missile range - no comment on US report, *The Citizen*, 22 June 1989, p. 2.

which would allow South Africa to hit African frontline states such as Angola and Tanzania. This caused increased concern among officials at the CIA and US Defense Intelligence Agency (DIA) over the proliferation of intermediate-range ballistic missiles in the Southern African region, where high geographical tension still existed. Further concern was that the missile that South Africa was rumored to test, would also be capable of being fitted with a nuclear warhead.<sup>39</sup>

Back in South Africa, Armscor denied any comment on the missile-testing rumors, saying only that it was well known that it was developing a missile testing range in the Overberg. The Armscor spokesman added that the range was at that time being qualified, which meant that Armscor was in the process of firing missiles in order to test the performance of the range. In addition, the Armscor spokesman added that South Africa was strong in the missile field and had already produced several of repute, although for obvious reasons Armscor could not disclose the details of its qualification program. Outside of Armscor's walls, however, US concern of a South African missile fitted with a nuclear warhead led to a lively discussion. Few had doubts that South Africa had the technology and capability to manufacture ballistic missiles and nuclear weapons. However, political and military experts believed it would be counter-productive for South Africa to actually arm a system such as the Jericho II missile with nuclear warheads, for both political and economic reasons. For example, the nuclear warhead option would bear an extremely expensive political price tag, especially in relations with friendly countries like Britain and the US. Notwithstanding the arms embargo, Western countries were also extremely frightened about the spread of nuclear weapons and the outbreak of a nuclear war in smaller countries. In such a war, no-one could be sure who was responsible for dropping nuclear devices, and the accusations would then be leveled at the US or the Soviet Union. The experts reckoned it would be far better to arm a system such as the Jericho II missile with a conventional warhead and then use it to fill the gaps in the South African Air Force armory, e.g. the lack of heavy bombers. Lastly, the experts thought that another reason that could spur Armscor

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39. Anonymous, Armscor tests Cape missile range - no comment on US report, *The Citizen*, 22 June 1989, p. 2.



to rather manufacture conventional missiles, was the huge demand for it on the international arms market.<sup>40</sup>

Open support for Armscor's missile program was published in an editorial in *Beeld*, an Afrikaans newspaper. The editorial stated that no-one should be surprised about the news of the impending missile test, as it had been general knowledge for quite a length of time that Armscor was developing missiles and had even displayed some products in Chile and Turkey. What surprised the editor though, was the US' anxiety about the matter, leading him to ask what the US had expected – that South Africa merely had to accept the mandatory arms embargo and sit with hands folded? This led the editor to conclude, rather smugly, that Resolution 418 of 1977, by which the arms embargo was instituted, had led directly to the build-up of a formidable arms industry in South Africa. As a last word, the editor stated the following: "*Dit is Suid-Afrika se goeie reg, net soos dié van elke ander selfrespekterende land, om hom na die beste van sy vermoë te bewapen – in die eerste plek vir defensiewe gebruik, maar ook as afskrikmiddel. Daarvoor skuld hy nie eens Amerika 'n verduideliking nie.*"<sup>41</sup>

On 7 July 1989, it was reported that a US satellite had observed the testing of a South African missile at the De Hoop missile testing range two days before. Even before Armscor made an announcement to this effect, officials of the US Department of Defense informed the South African Embassy officials in Washington, D.C. that they had observed the launch and would like more information on the missile. When asked for comments on the test, both the US Departments of State and Defense declined to provide any information. Armscor announced the test firing of a booster rocket, but declined to provide information on the performance or purpose of the missile. This led to renewed rumors that the booster could be the first stage of a missile that could be used to launch satellites or part of a weapon that could carry a conventional or nuclear warhead.<sup>42</sup>

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40. Anonymous, Armscor tests Cape missile range - no comment on US report, *The Citizen*, 22 June 1989, p. 2; Anonymous, SA 'to launch space rocket', *The Cape Times*, 21 June 1989, p. 1; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02561: *Telegram*: FBIS, Mbabane to United States Department of State, 22 June 1989.

41. As quoted in Anonymous, Ironie (Editorial), *Beeld*, 23 June 1989, p. 8; (English translation from original Afrikaans: "It is South Africa's right, just as it is the right of any other self-respecting country, to arm itself to the best of its ability – in the first place for defensive purposes, but also as deterrent. For this it does not even owe America an explanation").

42. M.R. Gordon, U.S. sees Israeli help in Pretoria's missile work, *The New York Times*, 27 October 1989, p. A1; Anonymous, Yank-satelliet sien toe SA missiel toets, *Die Burger*, 7 July 1989, p. 9.

The rumors thereafter quieted down for a few months, but surfaced again in October 1989 after a CIA report was leaked to the NBC television network. According to NBC, the CIA report had revealed in a report that the missile tested by South Africa at De Hoop was built by Armscor using technology supplied through the Israeli firm Urdan Industries. NBC claimed that Israel provided the technology in return for access to the De Hoop testing range and supplies of uranium for its own weapons network. According to the CIA report, the test missile flew 1,500 km southeast from De Hoop and came down near Prince Edward Island. NBC furthermore claimed that, according to the CIA report, Israel had entered into a full-blown partnership with South Africa for the production of nuclear missiles. In a last controversial statement, NBC accused US Secretary of State, James Baker, as having full knowledge of the deal transferring the missile technology from Israel to South Africa. Despite this knowledge, however, he did not protest about it when he met with Israeli Foreign Minister Moshe Arens in September 1989, even though the deal violated both the United Nations and US arms embargo against South Africa.<sup>43</sup>

In South Africa, Foreign Minister Pik Botha denied any knowledge about co-operation with Israel on a secret nuclear-missile program. The South African Department of Defense in turn referred all enquiries to Armscor, who described the NBC report as speculative. The testing of a test booster rocket at De Hoop on 5 July 1989 was however reconfirmed by Armscor. The test was described as a major milestone in the development of the De Hoop test range, which was said would enhance South Africa's development and test capabilities significantly. In Israel, Prime Minister Yitzhak Shamir denied outright that Israel was engaged with South Africa in a partnership to develop nuclear missiles and that Israel had provided technology for a nuclear-enabled missile to South Africa. Furthermore, the Israeli Defense Ministry stated categorically that Israel was adhering to the March 1987 decision and promise to the US that it would sign no new contracts with South Africa. When asked what deals with South Africa made before 1987 were still in effect and could account for the transfer of missile technology to South Africa, the Israeli Defense Ministry merely said that it could not elaborate on

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43. M.R. Gordon, U.S. sees Israeli help in Pretoria's missile work, *The New York Times*, 27 October 1989, p. A1; Anonymous, SA rocket build with Israeli help, says CIA report, *Business Day*, 27 October 1989, p. 2; Anonymous, SA evasive on nuke missile co-operation, *The Cape Times*, 27 October 1989, p. 2; Anonymous, Shamir denies SA missile link, *The Citizen*, 27 October 1989, p. 1.

old contracts. Many critics viewed this as a carefully worded statement that left open the possibility that some missile cooperation was indeed continuing under old contracts. Lastly, the US Department of State denied that Baker had full knowledge of the alleged Israeli-South African missile deal, adding that the Department of State was still investigating the alleged deal in the light of the Bush Administration's opposition to the proliferation of ballistic missile technology.<sup>44</sup>

Despite the denials by the Department of State of any knowledge of a missile cooperation agreement between Israel and South Africa, some other Bush Administration officials, mainly intelligence officials, let the cat out of the bag. According to them, when South Africa tested the booster rocket for a ballistic missile on 5 July 1989, US satellites picked up what they considered a very important piece of information: the rocket plume of the missile bore a striking resemblance to that of the Israeli Jericho II missile. Furthermore, equipment seen at the testing site resembled equipment used by Israel in its own missile tests. On the basis of these facts, some Bush Administration officials were convinced that Israel was helping South Africa develop its missiles, although others said there was no decisive proof of that. There was also no decisive proof that Israel was receiving shipments of enriched uranium from South Africa in return for its cooperation in the development of ballistic missiles.<sup>45</sup>

Shortly after the denials by the Bush Administration, the matter took an unexpected turn when it became clear that the CIA had leaked its information on the South African-Israeli missile cooperation in protest of a proposed sale of two supercomputers to Israel's Technion and Hebrew Universities by the Bush Administration. Despite assurances by the Bush Administration that adequate safeguards would be developed to ensure that the computers were not used for military research on ballistic missiles and nuclear weapons, critics of the sale disputed it, noting that close cooperation existed between Israeli academic and military institutions, and the computers would therefore be used to expand Israel's nuclear weapons and ballistic missile projects. Furthermore,

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44. Anonymous, SA evasive on nuke missile co-operation, *The Cape Times*, 27 October 1989, p. 2; Anonymous, Shamir denies SA missile link, *The Citizen*, 27 October 1989, p. 1; M.R. Gordon, U.S. sees Israeli help in Pretoria's missile work, *The New York Times*, 27 October 1989, p. A1; Anonymous, Storm broei oor SA 'kern-missiel: Amerikaners beskuldig Israel van hulp, *Die Burger*, 27 October 1989, p. 1.

45. M.R. Gordon, U.S. sees Israeli help in Pretoria's missile work, *The New York Times*, 27 October 1989, p. A1; F. Swart, VSA geheime diens hoor SA kry wapens van Israel, *Beeld*, 28 October 1991, p. 4.

given the computer's capability of simulating nuclear explosions and ballistic missile re-entry, thereby reducing the need for full-scale tests, and aiding in the design of more advanced weapons, as well as a previous history of close Israeli and South African cooperation, no guarantees existed that the computers or its technology would not end up in South Africa. This would constitute a direct violation of US arms embargo regulations, which prohibited the transfer of US-origin technology to South Africa via a third country. The Israeli transfer of fighter-aircraft technology obtained from the US to South Africa during the Reagan Administration, was specifically cited as example. The technology was supposed to be used for the development of the Israeli Kfir aircraft, but the development ended in 1987 as a result of US pressure.<sup>46</sup>

Due to Congressional pressure, Bush himself finally reacted on all the allegations by protesting against any Israeli cooperation with South Africa. He stated that the transfer of any weapons technology to South Africa was taboo in view of the mandatory arms embargo against that country. Therefore, he reiterated, it would not enhance relations between Israel and the US if Israel were indeed helping South Africa develop an intermediate-range nuclear missile. After Bush's statement, the Israeli Government again repeated its denials that it had helped South Africa develop nuclear weapons or provided it with banned US military technology. Whatever the whole truth might have been, the matter led to the cooling down of US-Israeli relations, also because Israel was pressurized by the US to agree to, in Israel's view, 'unacceptable' conditions for peace talks with the Palestinians. Many Israeli's viewed the leaking of the missile cooperation with South Africa as an attempt to disrupt relations between Israel and the US.<sup>47</sup>

A possibility why the Bush Administration remained reluctant to be too outspoken on the issue at first, was perhaps the political turnover that was taking place in South Africa during 1989. Indeed, not much was said by the Bush Administration on South Africa during its first year. It was as if the Administration was waiting to see what the

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46. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02576: *Telegram*: United States Embassy, Tel Aviv to Secretary of State, 27 October 1989; M.R. Gordon, U.S. sees Israeli help in Pretoria's missile work, *The New York Times*, 27 October 1989, p. A1; Anonymous, 'SA missiel-konnesie' om Israel te kap ..., *Beeld*, 28 July 1989, p. 4; S. Franklin, Israel insists it didn't deal with S. Africans, *Chicago Tribune*, 30 October 1989, p. 9; Anonymous, Israeli missiles for Pretoria: No (Editorial), *The New York Times*, 15 November 1989, p. A28.

47. S. Franklin, Israel insists it didn't deal with S. Africans, *Chicago Tribune*, 30 October 1989, p. 9; Anonymous, Israeli missiles for Pretoria: No (Editorial), *The New York Times*, 15 November 1989, p. A28.

end result of the political tug of war between P.W. Botha and F.W. de Klerk would be, before it made up its mind about a concrete policy towards South Africa. Also, Bush was still getting on his feet as president, in the midst of major international issues in China, Panama, and Eastern Europe that had to be dealt with.

#### 6.5.2.2 The International Signal and Control (ISC) Case and the indictment against Armscor

In October 1989, the US FBI launched an investigation into an alleged fraud of several millions of Rands by the founder of a company called International Signal and Control (ISC), which had substantial business and personal ties with South Africa, especially Armscor representatives. ISC was taken over by a British defense contractor, Ferranti, in 1987. The investigation started when Ferranti discovered that ISC and its chief executive and founder James Guerin, had vastly inflated its assets. What started out as a fraud inquiry turned up evidence of an extraordinary, decade-long scheme to violate US export controls and the arms embargo against South Africa through a myriad of front companies and offshore bank accounts. Initially, the investigation centered around ties with South Africa to the early days of ISC in the 1970s, and the possibility that the ties had continued well into the 1980s. During the investigation a former insider of ISC described a regular flow of trade between ISC and a variety of South African companies. The trade was ostensibly in electronic components for non-military equipment such as computers, radios and televisions, which were licensed by the US Government. However, the FBI investigated a growing suspicion that ISC was also involved in supplying military equipment or components capable of military use to South Africa in breach of the arms embargo. It was found that Guerin was well connected with individuals employed by Armscor, and that on at least two occasions during the 1980s, the US Customs Service had sent back to ISC shipments destined for South Africa on the grounds that the equipment being shipped did not match the export licenses. In the pieces of evidence, Guerin was also described as politically sympathetic to the South African Government and opposed to the arms embargo. When he heard that the FBI had launched an investigation into ISC, Guerin went into hiding – a fact that was immediately treated as a silent admission that he was indeed guilty.<sup>48</sup>

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48. Anonymous, Yank had glo bande met Krygkor, *Beeld*, 2 October 1989, p. 11; Anonymous, US fraud suspect 'had Armscor links', *Business Day*, 2 October 1989, p. 1; S. Barber, The Armscor Connection, *Sunday Times*, 3 November 1991, p. 3.

By August 1991, the case against ISC still continued. By this time, the investigation had progressed to the point where the US Military and Department of State investigated the sale of ballistic missile technology to Armscor and other South African firms by ISC. The investigation proved to be a tricky one when investigators noted that they had discovered a myriad of front companies. One investigator even remarked that it just went on and on: *“Every time we kick a rock and we think we are getting to an end, eight snakes shoot out and hide under the other eight rocks. Who knows where this will all end?”*<sup>49</sup> Nonetheless, it was determined that the smuggled technology included telemetry tracking, inertial and land guidance systems, gyroscopes for aircraft, missiles and helicopters, and photo imaging equipment. Furthermore, ISC made millions of dollars in other illegal military-related sales to South Africa, e.g. landmines. It was believed to be shipped to Armscor through a subsidiary of ISC, namely ISC Educational Systems, between 1984 and 1988, thus during the Reagan Administration. The shipments were disguised as computer-based educational material for blacks. It was still uncertain whether the sales, which were a direct violation of the arms embargo, continued after ISC merged with Ferranti in 1989. Investigations of ISC Educational Systems’ manufacturing documents named three South African companies as customers: Varitech, Darlon and Tool Techniques, apparently all part of the Barlow Rand conglomerate. Barlow Rand later admitted that it had an interest in ISC in the 1970s, but said that it had sold it after six months, and thereafter had no more interest in the company. Armscor declined to comment on the claims.<sup>50</sup>

In October 1991, newspaper reports indicated that US federal prosecutors were preparing criminal charges against Armscor, accusing the company of smuggling sensitive US military technology to South Africa. The reports came amid fresh reports about the company’s arms deals with Israel. In addition to Armscor, indictments were also sought against a host of individuals and smaller companies. This included Guerin and a number of his associates, as well as an unnamed South African businessman who served as an important link between the military and Armscor during the 1980s. The climax of the three-year probe into the case was expected to be the filing of export-

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49. As quoted in B. Seery, Is SA’s hand in Israel’s Jericho? *The Sunday Star*, 27 October 1991, p. 11.

50. Anonymous, US probes missile technology sale to Armscor, *Business Day*, 28 August 1991, p. 8; B. Seery, Is SA’s hand in Israel’s Jericho? *The Sunday Star*, 27 October 1991, p. 11; R. Knight, Inman raised the right issue, the News Media (Letter to the Editor), *The New York Times*, 28 January 1994, p. A26.

violation charges against Armscor. As the case was unraveled, it became clear that it was one of the most sweeping international arms smuggling and financial fraud enquiries in the US in years. Despite the myriad of front companies that were referred to in the previous paragraph, investigators also had to unravel thirty-nine bank accounts and fraudulent profit reports used to create more than \$1 billion in fake defense contracts. Besides Guerin, one of the masterminds behind the scheme was named as Clyde Ivy, one of Guerin's former confidantes. Ivy was involved in setting up Kentron, Armscor's missile-making subsidiary in 1978. He went on to join ISC, serving on its payroll as well as Armscor's. He denied being engaged in illegal conduct, saying that the US authorities were aware of dealings between South Africa and ISC, and that he had been regularly debriefed during the 1980s by the CIA on matters related to the South African military. In addition, Ivy said that it was his understanding that shipments of sensitive equipment were made by an ISC-connected company, Gamma Systems, to South Africa. Guerin always told him that the shipments had the US Government's approval. Therefore, he was under the opinion that Gamma Systems was a CIA front company.<sup>51</sup>

Suspicious of CIA complicity was further raised when investigations revealed that in the 1970s, Guerin was part of a top-secret US plan to have South Africa share certain intelligence information with the US Government. It entailed approval by the Department of State in February 1976 of a contract for the study of maritime command and control systems with the South African firm Barlow Communications. The Department of State revoked the contract in January 1978 because of US support for the 1977 United Nations arms embargo. Yet, investigators and former associates contended, Guerin kept up his connections with South Africa and later used his intelligence ties to help cover alleged smuggling and financial fraud. In order to accomplish that, he created a network of shell companies that were used to shuttle money around the world and cover alleged smugglings of military equipment to South Africa. Ivy was presumably also involved in that. As an example, case investigators cited an incident in 1983 where Ivy's office had

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51. A. Pasztor & E.T. Pound, Armscor faces possible charges of smuggling: South African arms maker is target of investigation over U.S. military gear, *The Wall Street Journal*, 31 October 1991, p. 24; Anonymous, US prosecutors to indict Armscor, *Business Day*, 1 November 1991, p. 2; G. Evans & E. Koch, US to charge Armscor with arms smuggling, *Weekly Mail & Guardian*, 1-7 November 1991, p. 2; D. Pallister & D. Beresford, Britain keen to bring S African arms trade in from the cold, *The Guardian*, 23 September 1994, p. 15.



helped to arrange a visit by two South Africans to Sarasota, Florida. They were apparently on a secret mission to buy missile-guidance parts for Armscor.<sup>52</sup>

On 31 October 1991, Armscor, two other South African companies, seven South Africans and ten US citizens were indicted for transgressions ranging from violations of the US Export Control Act, tax violations and other federal violations. The two other South African companies were the guided weapons firm Kentron and ordnance and explosive devices design and manufacturing firm, Fuchs Electronics. The seven South Africans were named as William "Randy" Metelerkamp, Johan Lombard, Vern Davis, Gerrit "Bull" Pretorius, Bert Quinn, Brian Scott and Jaco Budricks. One of the American accused was named as James Russel, who resided in South Africa. Guerin was indicted for assisting Armscor in violating the United Nations arms embargo, violating the US Arms Export Control Act and using Swiss bank accounts for the transactions.<sup>53</sup>

In the 129-page thick indictment document, it was stated that the investigation involved US officials, backed by British, Belgian and Italian police and intelligence services. In the document, previous undisclosed details unfolded of a close relationship between ISC and Armscor which in 1989 led to a joint proposal to Iraqi President Saddam Hussein to supply him with television and laser-guided glide bombs comparable to the weaponry that the US later used with telling effect in the Gulf War against Iraq. It also offered evidence of the joint development and marketing of advanced weapons systems to China, as well as false contracts with Pakistan and the United Arab Emirates. A series of Panama front companies were furthermore established. Except for the three South African companies already mentioned, other South African companies involved and named in the indictment included Macnay, RJ International, Varitech Engineering, African Technical Services, Pacific Management Enterprises, Darlon, Fosseway Engineering, Marnero Marketing, ESD and Swartklip Products. All of these were Armscor, Kentron and Fuchs Electronics front companies, but had not been charged

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52. A. Pasztor & E.T. Pound, Armscor faces possible charges of smuggling: South African arms maker is target of investigation over U.S. military gear, *The Wall Street Journal*, 31 October 1991, p. 24; Anonymous, Wanted men now working for Armscor? *The Cape Times*, 5 November 1991, p. 7; R. Knight, Inman raised the right issue, the News Media (Letter to the Editor), *The New York Times*, 28 January 1994, p. A26.
53. S. Barber, The Armscor Connection, *Sunday Times*, 3 November 1991, p. 3; Anonymous, Wanted men now working for Armscor? *The Cape Times*, 5 November 1991, p. 7; G. Evans & E. Koch, US to charge Armscor with arms smuggling, *Weekly Mail & Guardian*, 1-7 November 1991, p. 2; Anonymous, Amerikaner, Krygkor en 7 aangekla, *Beeld*, 1 November 1991, p. 9; F. Swart, Krygkor in reuse-smokkelsaak: Suid-Afrikaners aangekla oor miljoene se wapens vir SA, Irak, *Beeld*, 1 November 1991, p. 1.

individually. Most were said to have helped conceal from US Customs the true nature of the military-related shipments their mother companies were receiving from Armscor. Concerning the seven accused individuals, Meterlerkamp was described as an agent of Macnay, RJ International, Marnero Marketing and Fosseway Engineering. Lombard, Davis and Pretorius were listed as agents of Armscor and Kentron. Quinn was listed as the manager of Kentron's inertial guidance group, and Scott, also known as Graham Graighness, as materials manager for Kentron and contracts manager for Tool Techniques. Lastly, Budricks was listed as technical director of Fuchs Electronics.<sup>54</sup>

Guerin was also indicted for fraud against Ferranti. Possible Ferranti compliance with the smuggling between ISC and the South African firms after it took over ISC, was investigated, but it was found to be innocent. Accordingly, Ferranti also sought damages against Guerin, charging that he had used bogus weapons contracts to inflate the value of ISC prior to its acquisition by Ferranti. However, later evidence indicated that ISC informed Ferranti of its South African links, and that it was no secret to the US as well as the British Governments. Just before Ferranti bought ISC in 1987, an internal report to the Ferranti board warned about the political risks. The report stated that it should be noted that a number of ISC's programs depended on the goodwill and supply of South African elements, and that ISC acted as a procurement agency for South Africa. In South Africa, both Armscor and Fuchs Electronics declined to comment on the indictments, except for Fuchs Electronics saying that it was news for them and the newspapers knew more than what they knew. Metelerkamp, who had been arrested in 1984 in London, Britain along with three other South Africans on charges of arms smuggling, merely said that he was not allowed to comment on the US federal indictment against him. Metelerkamp's arrest in Britain and subsequent return to South Africa after his and his accomplices' bail conditions were eased, led to a sharp rebuke by the British Government when they failed to return to Britain to face their trial.<sup>55</sup>

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54. S. Barber, The Armscor Connection, *Sunday Times*, 3 November 1991, p. 3; Anonymous, Wanted men now working for Armscor? *The Cape Times*, 5 November 1991, p. 7; G. Evans & E. Koch, US to charge Armscor with arms smuggling, *Weekly Mail & Guardian*, 1-7 November 1991, p. 2; Anonymous, Amerikaner, Krygkor en 7 aangekla, *Beeld*, 1 November 1991, p. 9; F. Swart, Krygkor in reuse-smokkelsaak: Suid-Afrikaners aangekla oor miljoene se wapens vir SA, Irak, *Beeld*, 1 November 1991, p. 1.
55. Anonymous, US arms smuggler to SA charged, *The Cape Times*, 1 November 1991, p. 3; Anonymous, Amerikaner, Krygkor en 7 aangekla, *Beeld*, 1 November 1991, p. 9; J. van Wyk, Krygkor en Fuchs swyg oor VSA-saak van wapens, *Beeld*, 2 November 1991, p. 9; D.W. Potgieter, Metelerkamp and old hand at being caught, *Sunday Times*, 3 November 1991, p. 3; D. Pallister & D. Beresford, Britain keen to bring S. African arms trade in from the cold, *The Guardian*, 23 September 1994, p. 15.

Shortly after the indictments, the US Department of Justice started proceedings for the extradition of the seven South African individuals to stand trial in the US. According to the indictment document, if found guilty, Pretorius and Budricks could face jail sentences of 235 years each and a fine of \$23 million each. Lombard, Quinn and Davids each faced 15-year jail sentences and a fine of \$1 million, while Scott faced a possible jail sentence of 125 years and a fine of \$12 million. Furthermore, Armscor could be fined \$11 million, Kentron \$3,5 million and Fuchs Electronics \$21,5 million. When approached by *The Citizen* for comments, Armscor said that the matter was sub judice and that it was not prepared to comment. The South African Government stated that should it be found that the seven men were indeed involved in illegal acts in the US, such acts could be regarded as political in nature. The reason for this was that the alleged action of Armscor and its subsidiaries centered on circumventing both the US and the United Nations arms embargoes against South Africa. In terms of South African extradition policies, no person may be extradited to stand trial in another country if he was wanted for offences that were political in nature. However, no official extradition requests had as yet been received, but should they be received, a special court would be set up. The judge or magistrate in this special court would then have to be convinced that the US had good enough reason to have the men extradited.<sup>56</sup>

In June 1992 Guerin was convicted to fifteen years in a minimum-security jail, after he admitted guilt. In his guilty plea, Guerin alleged that his transactions with Armscor was authorized by the US intelligence community and that even Alexander Haig, former Secretary of State in the Reagan Administration, knew about the transactions. During the sentencing, it was noted that Guerin's relatively light sentence was especially due to the testimony of Admiral Bobby Inman, one of Bush's senior military advisors. Inman testified in favor of Guerin, saying that he had worked with Guerin from 1975 to 1978 as Director of Naval Intelligence. He described Guering as an American patriot that served as a very important source of information for the CIA concerning military developments in South Africa. However, Inman emphasized that the US Government had never given Guerin permission to violate the arms embargo, thus, exports by ISC to South Africa after January 1978 was without the knowledge or permission of the US

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56. F. Swart, Krygkor in re-use-smokkelsaak: Suid-Afrikaners aangekla oor miljoene se wapens vir SA, Irak, *Beeld*, 1 November 1991, p. 1; F. de Lange, Arms smuggling: Govt could oppose extradition, *The Citizen*, 9 December 1991, p. 5.

Government. During the sentencing, the names of the three South African firms and the seven individuals were again mentioned as being compliants in Guerin's smuggling scheme. All had refused to stand trial in the US. Furthermore, it was disclosed that the South African Government had secretly offered political asylum to four of the other accused in the trial.<sup>57</sup>

The case against Armscor, Fuchs Electronics, Kentron and the seven South African individuals continued well into the Clinton Administration and will be discussed accordingly in that section<sup>58</sup>.

### 6.5.2.3 Gyroscope smuggling

While the ISC case was still being investigated, yet another case was laid bare in November 1989 that raised new questions about military ties between South Africa and Israel. A South African businessman, Seymone Behrmann, was arrested along with two US citizens, Frank Randazzo and Maryanne Callaghan on charges that they attempted to procure missile guidance gyroscopes for Armscor from a leading US defense contractor, Northrop Corporation. Two warrants were also issued for two other South Africans, George Talbot and Guy Ferezou. Behrmann had South African citizenship but lived in Canada. The five suspects were indicted on 15 November 1989 for violations of various US laws, including the Arms Export Control Act, which basically entailed the enforcement of the arms embargo, and the CAAA of 1986.<sup>59</sup>

The plot was uncovered by US Customs agents who posed as arms brokers in a so-called 'sting' operation. They learned of the plot at an early stage and set up an undercover operation. According to a US Customs affidavit, the plot involved several

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57. F. Swart, Yank wat tegnologie na Krygkor gesmokkal het, kry 15 jaar, *Beeld*, 11 June 1992, p. 4; Anonymous, Smokkelaar van tegnologie na SA kry 15 jaar, *Die Burger*, 11 June 1992, p. 2; Anonymous, Executive is sentenced in arms-sale scheme, *The New York Times*, 11 June 1992, p. D6; M. Hough, Military sanctions against the RSA: Current and future prospects, *Strategic Review for Southern Africa* 15(1), May 1993, p. 32; R. Knight, Inman raised the right issue, the News Media (Letter to the Editor), *The New York Times*, 28 January 1994, p. A26; D. Pallister & D. Beresford, Britain keen to bring S African arms trade in from the cold, *The Guardian*, 23 September 1994, p. 15.

58. See Chapter 7, Section 7.6.4.

59. Anonymous, Missile spy ring: US arrest SA man, *The Cape Times*, 17 November 1989, p. 1; J. Gerth, 5 charged in plot to export arms, *The New York Times*, 16 November 1989, p. A7; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02590: *Fax* entitled 'Israel Aircraft Industries and indictment for illegal exports to South Africa', Secretary of State to United States Embassy, Tel Aviv, 22 November 1989.

unsuccessful attempts in 1987 and 1988 to export missile gyroscopes manufactured by Northrop Corporation to Armscor. Behrmann and Callaghan had repeatedly told undercover agents during videotaped or recorded meetings that the gyroscopes were destined for Armscor. Behrmann also told the undercover agents that he was receiving instructions from a very high level in the South African Government. The gyroscopes were an important component in missile guidance systems, and was said to have been intended for anti-tank missiles being developed in South Africa at the time in an effort to defeat the Soviet T-80 main battle tank it was facing in Angola.<sup>60</sup>

One attempt to export the gyroscopes involved Israel Aircraft Industries, a Government-owned company. According to the Customs affidavit, Northrop's manager for international contracts, John Keyo, contacted the undercover Customs agents in October 1988 regarding an enquiry he had received from Israel Aircraft Industries. According to Keyo, the company's request for gyroscopes was nearly identical to the gyroscopes that were being sought by South Africa at the time. Apparently, Behrmann identified Israel Aircraft Industries in August 1988 as a firm that was willing to assist South African in acquiring gyroscopes. In fact, Behrmann had met with an official of Israel Aircraft Industries while visiting Israel. Northrop learned about this when told by Behrmann, after US officials had secretly frustrated a plan to export the gyroscopes in August 1988, that Israel Aircraft Industries was willing to assist in acquiring the gyroscopes for diversion to South Africa for a very high price. A few weeks later, Israel Aircraft Industries contacted Northrop about the availability of the gyroscopes. Northrop however cooperated with the Customs agents and stalled the Israeli request. Thereafter, one other attempt was made to export the gyroscopes to South Africa. This time Northrop, again working with the Customs agents, agreed to supply some equipment, which would have been smuggled directly to South Africa.<sup>61</sup>

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60. Anonymous, Missile spy ring: US arrest SA man, *The Cape Times*, 17 November 1989, p. 1; J. Gerth, 5 charged in plot to export arms, *The New York Times*, 16 November 1989, p. A7; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02590: **Fax** entitled 'Israel Aircraft Industries and indictment for illegal exports to South Africa', Secretary of State to United States Embassy, Tel Aviv, 22 November 1989.

61. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 02590: **Fax** entitled 'Israel Aircraft Industries and indictment for illegal exports to South Africa', Secretary of State to United States Embassy, Tel Aviv, 22 November 1989; J. Gerth, 5 charged in plot to export arms, *The New York Times*, 16 November 1989, p. A7; Anonymous, Drie uit SA wou glo dele vir missiel koop, *Beeld*, 17 November 1989, p. 12.

According to the Customs affidavit, the gyroscopes could have been exported without a license to Israel, but export to South Africa or re-export from Israel to South Africa was strictly prohibited under the arms embargo regulations. The case investigators believed that Israel Aircraft Industries' request to Northrop was part of a diversion plan and not a coincidence, and therefore the request was stalled. However, when informed of the information in the affidavit, Israel Aircraft Industries' director of its US office in Washington, D.C. denied any knowledge of such a request. The South African Embassy in Washington, D.C. also denied that the South African Government was involved, saying that the Government and its agents would not do anything to circumvent US law in any way. Despite Behrmann's insistence that he was receiving his instructions from someone high up in the South African Government, the US investigators could find no evidence that any of the five indicted persons had any known connection to either the South African or Israeli Governments.<sup>62</sup>

In January 1990, Behrmann unexpectedly pleaded guilty to criminal conspiracy and violating the US Arms Control Act. He entered into a plea bargain – in return for a guilty plea, prosecutors agreed to drop the other charges against him, i.e. of contravening the CAAA of 1986 and of engaging in illegal money laundering. He nevertheless faced up to fifteen years in prison and about R2,6 million in fines when he would be sentenced in April 1990, although his lawyer was optimistic that he would be shown some leniency. According to the lawyer, Behrmann had always felt and still believed that there were people in the US Government who wanted to see the gyroscopes exported to South Africa. However, all things considered, it would have been very difficult to establish a defense, and that was the reason why Behrmann decided to accept the plea bargain.<sup>63</sup> It is unclear what sentence was placed upon Behrmann in the end.

Concerning Israeli involvement in the whole plot, it is interesting to note that US intelligence information that surfaced earlier in 1989 indicated possible Israeli-South African cooperation in developing a medium-range missile, which was tested in July 1989 at the South African De Hoop testing grounds. Israel denied any involvement, but some statements nonetheless left open the possibility that some missile cooperation was continuing under contracts signed before March 1987. The gyroscope issue could

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62. J. Gerth, 5 charged in plot to export arms, *The New York Times*, 16 November 1989, p. A7.

63. Anonymous, Man pleads guilty to US arms deal, *The Cape Times*, 5 January 1990, p. 2; S. Barber, Missile scheme mastermind guilty, *Business Day*, 5 January 1990, p. 2.

therefore be regarded as yet another sign that a new missile cooperation contract was entered into between Israel and South Africa. The coincidence of an Israeli firm requesting gyroscopes from Northrop at the same time as South African efforts to obtain gyroscopes from the same firm, was just too great.

Interestingly, in 1990, a dispute between the Israeli Foreign and Defense ministries over continued military cooperation with South Africa apparently occurred. The Foreign Ministry wanted all contracts with South Africa stopped, while the Defense Ministry wanted them maintained. The Defense Ministry seems to have carried the day. This was very significant reporting, because if it was true, then it was proof that Israel had indeed continued military cooperation with South Africa despite its assurances that it had ended it. In July 1991, Israel formally ended its trade embargo against South Africa, shortly after the US lifted its economic sanctions against the country.<sup>64</sup> The following statement by an aide to Israeli Prime Minister Yitzhak Shamir is significant: *"Today's Cabinet decision did not deal at all with military aspects of earlier decisions, and no change had taken place in that sphere"*.<sup>65</sup>

#### 6.5.2.4 Isolator and circulator smuggling

In September 1990, after a six-month investigation, US Customs agents shut down a company that had shipped ballistic missile parts to South Africa. A woman, Beverly Barratt, was arrested and Reginald van Rossum, the owner of the company called York Ltd., was being sought. The missile parts were described as computerized missile guidance equipment known as isolators and circulators. It had been shipped from York Ltd., based in Boynton Beach, Florida to Telecom Industries of South Africa. According to US Customs, the equipment was built to military specifications and intended for use in large-scale ballistic missiles. A search of the company headquarters in August 1990 uncovered records indicating that similar parts had been bought previously in the US and shipped to South Africa. York Ltd. did not have a license to order some of the military items and falsely told US manufacturers that the equipment was to be shipped to the Netherlands instead of South Africa. If convicted of violating the Arms Export

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64. D. Williams, Israel ends its trade embargo against South Africa, *Los Angeles Times*, 15 July 1991, p. A13.

65. As quoted in D. Williams, Israel ends its trade embargo against South Africa, *Los Angeles Times*, 15 July 1991, p. A13.



Control Act, the two accused could face a maximum of ten years in prison and a \$1 million fine.<sup>66</sup>

As the case progressed, several new details emerged. According to the prosecutors in the case, Reginald van Rossum owned Telecom Industries and had set up York Ltd. as a front company for it. York Ltd. acquired electronics parts from manufacturers across the US and then re-exported it via circuitous routes to South Africa, after making false declarations that the components were destined for the Netherlands and were therefore permitted to be exported under a general US export license. However, the parts were restricted items on the US Munitions Control List, and therefore no license for export to South Africa could be issued for them. According to US Customs agents, the smuggling operation had run for at least three years before it was cracked in 1990. Confiscated bank records showed that there had been 15 monetary wire transfers from South Africa into York Ltd's bank account in 1990. Twelve of these transfers came from Telecom Industries and represented an amount of approximately R1,1 million. Two transfers came from Fuchs Electronics, a subsidiary of Barlow Rand, and the last transfer from Grinaker Electronics. Barratt admitted involvement in the deal in October 1991. She was sentenced to six months house arrest and three years probation after she was convicted of contravening the US Arms Export Control Act by assisting in illegally exporting missile parts to Telecom Industries in South Africa. At the time of her sentencing, Van Rossum was still hiding. He was believed to be in South Africa.<sup>67</sup>

#### **6.5.2.5 South Africa's testing of a second ballistic missile**

In May 1991, it was reported that South Africa was preparing to test a second medium-range ballistic missile, which was also allegedly developed in cooperation with Israel. A US spy satellite took photos of the missile being prepared for testing at the De Hoop testing grounds in the southern Cape. Once again, it looked like an adapted version of the Israeli Jericho II missile. A warning to marine craft to avoid the area was already

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66. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche O2594: **Press report:** Customs stops missile system shipments to Pretoria, 19 September 1990.

67. B. Seery, Court case lifts lid on SA missile secrets, *The Sunday Star*, 6 October 1991, p. 13; D. Beresford, US ban deals big blow to South African arms maker, *The Guardian*, 17 October 1991, p. 17; B. Seery, Is SA's hand in Israel's Jericho? *The Sunday Star*, 27 October 1991, p. 11; G. Evans & E. Koch, US to charge Armscor with arms smuggling, *Weekly Mail & Guardian*, 1-7 November 1991, p. 2.

issued the previous week. However, a spokesman for the US Department of Defense's division that monitored such warnings said that he wasn't aware of any South African Government warning of an impending missile test. It was nonetheless clear that the Bush Administration was concerned about such missile tests by South Africa, because it was afraid that South Africa's missile program would represent a further proliferation of dangerous weapons in an already unstable region.<sup>68</sup>

#### 6.5.2.6 New US arms sanctions against Armscor

In October 1991, it became known that Israel had indeed exported key ballistic components to South Africa during the previous year, despite assurances by Israeli Prime Minister Yitzak Shamir to Bush in November 1989 that Israel had already decided to reduce military cooperation with South Africa to a great extent. The components at issue were shipped to Armscor by an Israeli government-affiliated weapons company. This was proof that Israel had indeed entered into a new contract with South Africa concerning missile development. As a result, Armscor was slapped with a two-year suspension of rights to export or import any products from US territory and from receiving US Government contracts for the same period.<sup>69</sup>

In the official announcement of the sanctions, the Bush Administration did not provide any more details beyond stating that its Under Secretary of State for International Security Affairs had determined on 27 September 1991 that missile proliferation activities by Armscor required the US to impose trade restrictions under the 1990 Arms Export Control and Defense Authorization Acts and the Missile Technology Control Regime (MTCR) created by the G7 industrialized countries and Australia. It then merely stated that trade restrictions on entities that engaged in missile technology proliferation were intended in part to further the US policy of encouraging countries to halt such proliferation activities. The new sanctions, which would remain for at least two years even if all other sanctions or embargoes were lifted, prohibited: the export to Armscor or any of its subsidiaries or affiliates of a wide range of goods produced in the US, and specifically all items controlled by the Arms Export Control Act and the Export Amendment Act; all US Government contacts with Armscor or its subsidiaries or

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68. F. Swart, SA 'op punt om 2de missiel te toets' – VSA, *Beeld*, 4 May 1991, p. 4.

69. D. Hoffman & R.J. Smith, President waves sanctions for Israel: S. African firm cited in missile parts deal, *The Washington Post*, 27 October 1991, p. A1.

affiliates; and the import of any products produced by Armscor or its subsidiaries or affiliates. The sanctions constituted category one sanctions, which were regarded as the most serious level of sanctions. This meant that Armscor's missile proliferation activities were regarded as relating to complete missile systems or subsystems.<sup>70</sup>

After the announcement, speculations abounded around the reasons why the sanctions against Armscor had been imposed. One possible reason cited the landing of an aircraft with Armscor military equipment earlier in the year in Yugoslavia. The US alleged it had photo's proving that it was indeed an Armscor aircraft carrying Armscor equipment. Another reason was the alleged Armscor military equipment exports to Iraq, which raised concern in the US about the distribution of advanced missile technology to Third World countries and the Middle East, especially after the US discovered the extent of the Iraqi nuclear weapons program. However, when the MTCR as well as the 1990 Arms Export Control and Defense Authorization Acts were studied, it became clear that its guidelines limited the transfer of missile and missile-related technology for projectiles of at least 500 kg with a distance of at least 300 km. Under these Acts, the US President was obliged to sanction any foreign country or entity he determined to be involved in the export, transfer or trade of technology that had substantially contributed to the design, development or production of missiles in countries not adhering to the MTCR. The regulations were aimed at encouraging countries to end all activities around military missile technology. In the light of this, US diplomatic sources insisted that the sanctions against Armscor were little more than a technical decision required by law.<sup>71</sup>

Interestingly, the Bush Administration later conceded that the discovery that South African weapons were used by Iraq during the Gulf War, had heightened US awareness of the danger, however small, of South Africa's potential as arms trader. After Iraq's invasion of Kuwait in 1990, the US Congress became alarmed that a dictator like Saddam Hussein could lay his hands on equipment that could deliver warheads of any

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70. Bush Presidential Library (College Station), Public Papers: *Message* to the Congress reporting on the National Emergency with respect to Export Control Regulations, 25 September 1992; D. Beresford, US ban deals big blow to South African arms maker, *The Guardian*, 17 October 1991, p. 11; H. Robertson, SA missiles for Iraq: US acts, *Weekend Argus*, 12 October 1991, p. 1; Federation of American Scientists (Washington, D.C.), *Arms Sales Monitor* 7-8, September-October 1991 (Online document); H. Grange, SA firepower could evade US sanctions, *The Star*, 19 October 1991, p. 10; G. Evans, Armscor finally admits: Yes, we make missiles, *Weekly Mail & Guardian*, 18-24 October 1991, p. 6.
71. Anonymous, Gerug oor SA wapenhulp dalk rede vir VSA-boikot, *Beeld*, 14 October 1991, p. 2; F. Lötter, Missiel-stappe is nie net teen SA, *Beeld*, 14 October 1991, p. 3; H. Grange, SA firepower could evade US sanctions, *The Star*, 19 October 1991, p. 10.

kind, i.e. nuclear, chemical, biological and conventional. To reflect these concerns, the Arms Export Control and Export Administration Acts was amended in two basic respects: first, they required the US Administration to provide semi-annual reports on the relevant activities of non-MTCR countries, and secondly, they obliged the Administration to impose unilateral sanctions on countries, entities or persons found to be involved in the transfer of certain items between non-MTCR countries. As soon as the legislation was passed, the South African Government was informed by the US Department of State that Armscor might fall into the net because of its missile collaboration with Israel. This was based on US intelligence reports that Israel had over the previous year exported key components for ballistic missiles to South Africa, and that Armscor was cooperating with Israel to build an intermediate-range ballistic missile that could deliver nuclear, chemical or conventional warheads, as already discussed.<sup>72</sup>

The South African reaction to the new sanctions varied from being non-perturbed, to shock, to scorn. Foreign Minister Pik Botha denied that the new sanctions had anything to do with Armscor sales to countries like Iraq or Yugoslavia, as was suggested. He urged that the move should not be regarded as being political in nature, because it was not directed at the South African Government for having done anything of a political nature with which the US did not agree. In his view, the sanctions were directed worldwide against the proliferation of missile technology, as part of the MTCR. However, he did describe the sanctions as a bit unfair, adding that it had come at a most inopportune time. Armscor in turn, scoffed at speculation that the reason for the sanctions was related to the sale of missiles and missile technology to Iraq, pointing out that while South Africa was indeed developing missiles, it was hardly at the stage where other countries would buy them. The company explained that due to the arms embargo instituted in 1977, South Africa had established the capability to develop and manufacture a wide range of missiles for its own military use. This included ground-to-ground, ground-to-air, air-to-ground and air-to-air missiles. However, as a result of defense cuts, these programs have been curtailed to a large extent. Therefore, further development would be directed to commercial applications, e.g. satellites. Other comments from Armscor executives pointed to speculations that the US was using the missile proliferation issue to wipe out competitive arms producers in smaller countries.

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72. H. Grange, SA firepower could evade US sanctions, *The Star*, 19 October 1991, p. 10; S. Barber, Washington Diary, *Sunday Times*, 20 October 1991, p. 15; B. Seery, Is SA's hand in Israel's Jericho? *The Sunday Star*, 27 October 1991, p. 11; F. Swart, VSA geheime diens hoor SA kry wapens by Israel, *Beeld*, 28 October 1991, p. 4.

Indeed, not long before the new sanctions bomb exploded, the executive chairman of Armscor, Johan van Vuuren, accused the US and other permanent members of the United Nations Security Council of trying to establish an arms cartel under the new world order that followed the Gulf War with Iraq. What he basically said, was that they wanted to say who would buy what from whom.<sup>73</sup>

Sources from the Department of Foreign Affairs were not hesitant to say what they thought, namely that they regarded the US clampdown on South Africa's missile proliferation activities and the resultant sanctions against Armscor as a cynical example of US trade protectionism. *Beeld* newspaper had quite a strong-voiced reaction to the issue. It offered the opinion that the decision by the US to prohibit any trade with Armscor for two years, underlined yet again the failure of the arms embargo. The main reason provided for the sanctions, namely that it was a worldwide effort to stop the danger that the proliferation and distribution of missile and related technology held for world peace, said much about Armscor's abilities, i.e. that despite the arms embargo, it was able to develop technology that could hold potential danger for world peace. Initially, the US' effort seemed praiseworthy, until one thought about how much money that country made as one of the world's largest arms dealers. *Beeld* also asserted that the citing of an alleged discovery of South African weapons on an aircraft in Yugoslavia as a contributing factor to the sanctions decision bordered on hypocrisy, because the US, more than any other country, knew in what unexpected places arms could appear that had been sold to a middleman. *The Star* agreed in principle with the opinion voiced in *Beeld*, saying that even with the new arms sanctions against South Africa, there was no guarantee that the country would not continue to find and satisfy markets for its military innovations.<sup>74</sup> It is as if the general feeling in South Africa was 'who needs the US anyway!'

Ironically, the new arms sanctions were by and large redundant, because the US was already prohibited to purchase anything from Armscor's main production line by the

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73. Anonymous, Pik: New weapons sanctions 'unfair', *Sunday Times*, 13 October 1991, p. 2; H. Robertson, SA missiles for Iraq: US acts, *Weekend Argus*, 12 October 1991, p. 1; D. Breier, Cynical reaction to US sanctions, *The Sunday Star*, 13 October 1991, p. 2; F. Lötter, Missiel-stappe is nie net teen SA, *Beeld*, 14 October 1991, p. 3; D. Beresford, US ban deals big blow to South African arms maker, *The Guardian*, 17 October 1991, p. 11; G. Evans, Armscor finally admits: Yes, we make missiles, *Weekly Mail & Guardian*, 18-24 October 1991, p. 6.

74. D. Breier, Cynical reaction to US sanctions, *The Sunday Star*, 13 October 1991, p. 2; Anonymous, Krygkor-isolasie (Editorial), *Beeld*, 15 October 1991, p. 10; H. Grange, SA firepower could evade US sanctions, *The Star*, 19 October 1991, p. 10.

1984 United Nations arms embargo on imports of arms-related equipment from South Africa. Also, as a matter of its arms embargo policy, the US did not license the sale to Armscor of any items on the Munitions List. Furthermore, the US arms embargo policy also prohibited it from entering into contracts with Armscor.<sup>75</sup>

Also ironic was that similar sanctions against Israel, whose cooperation with South Africa in the development of ballistic missiles was being offered as one of the reasons for the sanctions against Armscor, were waived as part of an agreement under which Israel pledged to quit exporting missile technology to South Africa. The agreement, which was already worked out quietly before the sanctions against Armscor was announced, was designed to avoid a requirement that the US President take action against countries or companies that violated the MTCR and Arms Export Control and Defense Authorization Acts, which were aimed at preventing proliferation of missiles in third-world countries. Speculation about why Armscor was punished and not Israel ranged from views that Jews had substantial power in the US Senate to the Bush Administration's concern that punishing Israel would undermine its position at the impending Middle East peace conference and would further aggravate US-Israeli relations. The Bush Administration disputed the latter, saying instead that both the US and Israel had been working for a long time on resolving the question of Israeli violations of the MTCR. Israel had finally agreed in September 1991 to pledge adherence to the MTCR, while South Africa made no attempt to adhere to the Convention. Secretary of State James Baker also specifically defended Bush's decision, saying that the Administration followed the law very specifically, and that the law allowed the US President to grant exemptions to enforcement of the sanctions provision. In the case of Israel, promises by the country to abide in future by the MTCR export control guidelines exempted the country from sanctions. In South Africa, the reports of sanctions against Israel being waived was greeted with indifference by Armscor, who described previous

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75. S. Barber, Washington Diary, *Sunday Times*, 20 October 1991, p. 15.

reports that the company had obtained missile components of US origin from Israel as mere media speculation.<sup>76</sup>

In February 1992, despite the new arms sanctions against Armscor, the US failed to obtain a commitment from South Africa to join seven Western nations in ending the sales of missile technology to Third World countries. Officials of the Bush Administration negotiated with South African Government officials in Cape Town on a wide range of arms proliferation matters, but South Africa refused to sign an agreement to adhere to the MTCR. Apparently, the South Africans were divided on the issue. The Department of Foreign Affairs favored cooperation, but Armscor opposed.<sup>77</sup> Nonetheless, the negotiations in itself could be regarded as a breakthrough, because any form of military discussions had been denied for many years as a result of the arms embargo.

#### 6.5.2.7 Israeli complicity in South African missile program: New evidence

In March 1992 Israeli violations of the US arms embargo against South Africa surfaced yet again when the US Department of State's Inspector General, Sherman Funk, determined in a draft report that Israel had exported certain advanced US arms technologies to third countries like China and South Africa without the permission of the US. The report came in the wake of recent intelligence reports that suggested that at least some Israeli companies might have been playing fast and loose with US regulations barring the transfer or re-export of US military technologies to third countries. This included anti-tank missiles sold to South Africa. Israel employed several maneuvers to re-export US technologies. One of these involved the buying of US components by Israel and installing them in an Israeli weapons system, then selling the finished product to a third country. Another method was to disassemble a US-manufactured weapon, unlocking its design secrets and then adapting it for resale as an Israeli product. Israel

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76. T.L. Friedman, Must be flexible, Baker tells Israeli, *The New York Times*, 16 November 1989, p. A3; D. Hoffman & R.J. Smith, President waves sanctions for Israel: S. African firm cited in missile parts deal, *The Washington Post*, 27 October 1991, p. A1; J. Battaile, The Middle East Talks: Israel arms deal escapes South Africa sanctions, *The New York Times*, 27 October 1991, p. 8; S. Labaton, Baker defends waiver of sanctions against Israel on missiles, *The New York Times*, 28 October 1991, p. A12; Anonymous, Israeli missile parts for SA 'speculation', *The Pretoria News*, 28 October 1991, p. 3; G. Evans & E. Koch, US to charge Armscor with arms smuggling, *Weekly Mail & Guardian*, 1-7 November 1991, p. 2; Federation of American Scientists (Washington, D.C.), *Arms Sales Monitor* 13-14, March-April 1992 (Online document).

77. D.B. Ottaway, Missile talks stumble in South Africa; U.S. fails to win anti-export pledge, *The Washington Post*, 16 February 1992, p. A40.



did not deny the allegations outright, saying only that Israel's policy was to adhere to the procurement and technology transfer regulations of the US. The allegations in the report were described as being sensitive matters that were subject to negotiations between the Israeli and US Governments. Nonetheless, Funk recommended that disciplinary actions be taken against the Department of State's Office of Political-Military Affairs, which was responsible for monitoring improper arms transfers. He chastised the Department in the report for failing to act on warnings that Israel was engaged in unauthorized re-exporting of US arms technologies, especially to South Africa, who was under an arms embargo.<sup>78</sup>

In the wake of the report, the US Department of Commerce issued an interim rule on 16 June 1992 in the Federal Register, in which destinations were listed for which a validated license was required when the exporter knew or had reason to know that the exported items would be used in the design, development, production or use of missiles. The list included Israel and South Africa as being involved in missile projects, and for the first time, a much stricter policy with regard to missile-related equipment being exported from the US to Israel came into action.<sup>79</sup> South Africa was already barred by the arms embargo from receiving such technology through any means.

#### **6.5.2.8 South Africa launches space satellite program**

In June 1992, it was reported that South Africa had launched its space satellite program, i.e. an ambitious effort to build and launch space satellites in the next three to five years. It was also seeking foreign partners to help it become internationally competitive – a matter not allowed under the arms embargo. As part of the program, the South African Government established a billion-dollar conglomerate called Denel, which took over twenty-five subsidiaries of Armscor. Denel in turn created an aerospace division charged with putting South Africa into the commercial satellite business by 1995. The division was called Houwteq, which launched into building a satellite that could be launched within five years. Furthermore, South Africa sought to build a space center similar to the US' Cape Canaveral on the Cape Peninsula, for use by the entire Southern Hemisphere. In preparation for the program, South Africa had already tested at

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78. T.L. Friedman, Arms-export reports further strain U.S.-Israeli ties, *The New York Times*, 15 March 1992, p. 10.

79. Federation of American Scientists (Washington, D.C.), *Arms Sales Monitor* 16, July 1992 (Online document).

least three intermediate-range missiles, of which two were fitted with two-stage rockets, and tested them at the Overberg testing range. Furthermore, various components for satellites were already obtained or developed, i.e. super-light titanium fuel tanks, extra-strong but extremely light composite materials used in build caskets for equipment, compact imaging equipment, small telemetry and avionic guidance systems, and positioning equipment to control satellites in flight.<sup>80</sup> In the light of the discussion thus far, it was clear how South Africa had procured much of this equipment through violations of the arms embargo.

As part of the space satellite program, a team of Denel's officials visited Europe in May 1992 in an effort to obtain more technology and partners. The groups also hoped to talk to potential partners in the US. However, this would still be violation of the arms embargo, as well as against the MTCR, which was aimed at halting the proliferation of missile technology. Furthermore, Armscor and all its subsidiaries was slapped with an embargo on all exports to it from the US, as discussed. Although Denel was independent from Armscor, the US still viewed it as an affiliate of Armscor, because of its takeover of 25 Armscor subsidiaries. Stiff opposition of the program also came from a South African conservation group, which objected to the testing of rocket motor propellants at a site in a proposed biosphere reserve on the Cape Peninsula. The village council of a small community at Rooiels in the Peninsula sued Denel's chemical subsidiary, Somchem, which had its main motor propellant testing site on the southern edge of the Kogelberg nature reserve. The village wanted Somchem expelled from the region. If it won, the satellite program could be delayed for months or years while new testing facilities were build elsewhere.<sup>81</sup> Naturally, conservationists in the US probably also pressurized Bush to block the program.

### **6.5.3 SOUTH AFRICAN NUCLEAR DEVELOPMENT**

#### **6.5.3.1 South Africa's signing of the Nuclear Non-proliferation Treaty**

In March 1990, rumors that South Africa was ready to sign the international Nuclear Non-proliferation Treaty, which limited the spread of nuclear weapons, surfaced yet

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80. D.B. Ottaway, South Africa launching space satellite program; U.S., conservation group oppose plan, *The Washington Post*, 9 June 1992, p. A11.

81. D.B. Ottaway, South Africa launching space satellite program; U.S., conservation group oppose plan, *The Washington Post*, 9 June 1992, p. A11.

again. The rumors were the result of US, Britain and Soviet Union officials saying that they believed that after talks with South Africa in 1988 and 1989, South Africa was poised to sign the treaty after refusing for many years to do so. Apparently, in December 1989, South African Foreign Minister Pik Botha left the representatives of the three mentioned countries with a clear impression that the South African Government would agree to adhere to the treaty at another meeting in Vienna in 1990. The development that appeared to have swung South Africa around in favor of signing the treaty, was apparently an assurance from the US, Britain and the Soviet Union that the International Atomic Energy Agency would not be in a position to start inspecting South Africa's nuclear development plants for about two years after it had signed the treaty. Although inspections of the two nuclear power reactors at Koeberg and the small Safari research reactor took place regularly, the South African Government had never allowed any inspection of its pilot uranium enrichment plant, which was suspected of being used for military ends. South Africa was also assured in principle that if it signed the treaty, European countries were likely to lift their ban on nuclear cooperation with South Africa. These assurances came after South Africa said that it would only sign the treaty if it could gain access to Western nuclear technology, be able to take part fully in the scientific work of the International Atomic Energy Agency and benefit from the help it gave its members.<sup>82</sup>

In September 1990 an international storm broke loose when a declassified CIA document prepared in December 1979 revealed that South Africa had an active nuclear weapons program since at least the mid-1970s, despite years of official denials from the South African Government. The declassification of the document in response to a US Freedom of Information Act request from a private firm, the Natural Resources Defense Council, marked the first time that the US Government had confirmed that South Africa had a dedicated nuclear weapons program and that the US Government knew about it. According to the document, South Africa had almost certainly conducted an atmospheric test of a low-yield nuclear bomb off its coast in 1979 – the so-called Vela incident discussed in detail in Chapter 3. The document further revealed that Israel had cooperated closely with South Africa in the 1970s on nuclear weapons programs and had provided various sorts of advanced nuclear weapons technology to South Africa. Previously classified details of the Vela incident was contained in the document, as well

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82. P. Lewis, South Africa seen as ready to sign nuclear pact, *The New York Times*, 21 March 1990, p. A11.

as a detailed exploration of who was responsible. All fingers pointed to South Africa as the only likely source of the test, noting that the country had sufficient supplies of highly enriched uranium to build several small nuclear bombs. Furthermore, the explosion in 1979 was carried out in secrecy over remote waters off Southern Africa's southern coast, after South African authorities declared the harbor and the naval base at Simonstown off-limits to the public. Such a closure was not necessarily required for a nuclear test at sea, but it could have screened sensitive loading or unloading operations as well as ship movements.<sup>83</sup>

The declassification of the CIA report and the storm it created placed new pressure on South Africa to sign the Nuclear Non-proliferation Treaty. On 28 June 1991, the South African Government announced that it was ready to forgo the possession of nuclear weapons and would sign the Nuclear Non-proliferation Treaty. After so many years of pressure by various US Administrations, the Bush Administration finally tasted the victory. In a statement following the announcement, South African Foreign Minister Pik Botha emphasized yet again that South Africa's many years of refusal to sign the treaty was on the basis that doing so would jeopardize the country's security. Thereafter, Botha acknowledged that South Africa had the potential to develop a nuclear bomb, and that the country had a plant that produced weapons-grade uranium. However, the country had never tested such a weapon, either alone or in cooperation with other countries. Furthermore, according to the statement read by Botha, the threat of a conventional military conflict involving superpower rivalry in Southern Africa had diminished substantially. The factors behind this included the decline in tensions between the Soviet Union and the US, the withdrawal of the Cuban forces from Angola, and the growing international acceptance of South Africa as a consequence of De Klerk's commitment to reform in South Africa. Therefore, South Africa's nuclear weapons research would cease. Botha ended his statement by expressing the hope that South Africa, by signing the treaty, would qualify for renewed membership in the International Atomic Energy Agency, which would allow it to take part in the exchange of nuclear technology for peaceful purposes.<sup>84</sup>

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83. J.M. Broder, S. Africa A-arms program since '70s told, *Los Angeles Times*, 27 September 1990, p. A16.

84. C.S. Wren, Pretoria accepts atom-arms ban and agrees to plant inspections, *The New York Times*, 28 June 1991, p. A1; Anonymous, News summary, *The New York Times*, 28 June 1991, p. A2; K. Nelmapius, SA sal kernsperverdrag onderskrif, *Beeld*, 28 Junie 1991, p. 1.

In signing the treaty, South Africa agreed to open up all its nuclear installations to international inspection. Although inspections of the Koeberg nuclear power reactors and the Safari 1 research reactor had already taken place, signing the treaty would also include a thorough examination of the uranium enrichment plant at Valindaba, to which access for inspection was refused in the past. In the US, Bush delivered a statement in which he welcomed and commended the South African Government for its decision to accede to the Nuclear Non-Proliferation Treaty. He said the decision reflected the growing international conviction that the proliferation of weapons of mass destruction had to be halted, as well as demonstrated the statesmanship and vision of De Klerk as he took South Africa into a new era beyond apartheid and regional conflict. The editor of the *The New York Times* agreed when he stated that banning nuclear bombs was another sign of the enlightened leadership of De Klerk. The editor also stated that the reason for South Africa's change of heart was clear, namely that it could no longer afford the denial of trade and technology that came with its status as a pariah state.<sup>85</sup>

On 8 July 1991, South Africa adhered to its commitment when Foreign Minister Pik Botha signed the Nuclear Non-proliferation Treaty at a ceremony in Pretoria, thereby permitting inspection of all its atomic installations and easing international concerns over its nuclear weapons ambitions. A few months later, in October 1991, a statement was made by a reporter in *The New York Times* that South Africa was a customer of Communist China in the nuclear, chemical and missile business. The South African Ambassador in the US, H.H. Schwarz, reacted strongly in a letter to the Editor, saying that there was no evidence for the allegation and that the South African Government disputed such unsubstantiated allegations. He further stated that South Africa had no need for nuclear weapons, a fact substantiated by South Africa's signing of the Nuclear Non-proliferation Treaty.<sup>86</sup>

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85. C. S. Wren, Pretoria accepts atom-arms ban and agrees to plant inspections, *The New York Times*, 28 June 1991, p. A1; Bush Presidential Library (College Station), Public Papers: **Statement** on South Africa's accession to the Nuclear Non-Proliferation Treaty, 28 June 1991; Anonymous, South Africa bans the bomb (Editorial), *The New York Times*, 7 July 1991, p. D10.

86. Anonymous, South Africa signs a treaty allowing nuclear inspection, *The New York Times*, 9 July 1991, p. A11; H.H. Schwarz, Nonnuclear Pretoria (Letter), *The New York Times*, 18 October 1991, p. A30; M.R. Gordon, Washington welcomes De Klerk disclosure, but wants more details, *The New York Times*, 25 March 1993, p. A12.

### 6.5.3.2 US spying revealed

A few months after the signing of the Nuclear Non-proliferation Treaty by South Africa, a South African sweeping team in two operations discovered listening devices planted by the FBI and CIA in the South African Embassy in Washington, D.C. According to the sweeping team, various types of listening devices had been planted in the Embassy. They also said that the spying effort was an extremely professional operation. The CIA however only admitted in the beginning of 1993 that it had been responsible. The reasons for planting the devices were threefold: first, they wanted to spy on Armscor's missile development program and other activities with military implications, and secondly, the CIA were convinced that South Africa had developed a nuclear weapon. Thirdly, there were fears that South African agents were targeting ANC officials in the US for assassinations. The spying started during the Reagan Administration but only became particularly intense during Reagan's second term and then during the Bush Administration. It was intensified in 1990, when the Bush Administration suspected that the South African nuclear weapon development program was reaching its height. More listening devices were planted in the South African Embassy, and telephone conversations of the more senior officials in the Embassy were routinely intercepted by the National Security Agency (NSA), the electronic ears of the US intelligence community. The movement and contacts of selected diplomats were also followed and photographed by FBI counter-intelligence agents.<sup>87</sup>

The spying incident took place during the term of South African Ambassador Piet Koornhof, who went out of his way to make friends with politicians and groups supportive of the Bush Administration. He even often received the notorious far-right US politician Jesse Helms at the Embassy, and instigated other acts of goodwill in an effort to normalize US-South African relations.<sup>88</sup> Thus, the fact that the Bush Administration went behind his back to install the listening devices, left a taste of bitterness in the mouths of those South Africans who tried their utmost best to improve relations between South Africa and the US. It was proof that the Bush Administration still distrusted South Africa. Why else would they plant listening devices in the South African Embassy? As discussed in the paragraph above, the US was suspicious about

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87. F. Swart, Agente het in Dr. Piet se tyd op ambassade in Washington gespioeneer, *Beeld*, 29 March 1993, p. 4; S. Barber, US still spying on South Africa, *Sunday Times*, 4 April 1993, p. 5.

88. F. Swart, Agente het in Dr. Piet se tyd op ambassade in Washington gespioeneer, *Beeld*, 29 March 1993, p. 4.

South Africa's missile and nuclear capabilities. It did not believe the South African Government's denials that South Africa had nuclear weapons and missiles capable of carrying a nuclear warhead. The US had firm grounds on which its suspicions were based, in any case as far as missile technology was concerned. The evidence emerging from arms embargo violation cases in the US proved that South Africa indeed had an advanced missile program. However, the US only had circumstantial evidence of a possible South African nuclear weapons program. It therefore sought hard evidence of such a program, possibly to strengthen its implementation of the arms embargo.

Despite the revelation of the spying activities, South African diplomats in the US, including Koornhof's successor, Harry Schwarz, declined to comment. The revelation came at a time of general agreement amongst Bush Administration officials and Ambassador Schwarz that the relations between the US and South Africa was on an extremely good footing. Schwarz indicated that he wanted to keep it that way, therefore he would not make a big issue of the spying incident.<sup>89</sup>

#### **6.5.4 SMUGGLING CASES**

##### **6.5.4.1 The Gluckle and Baker case**

In May 1989, two South Africans, Heins Guckle and Syd Baker, were arrested in New York when they tried to sell arms to US federal agents posing as gun smugglers. Guckle and Baker claimed they were co-owners of an arms factory in South Africa, and expressed interest in selling arms to a Colombian terrorist organization known as M19. The arms entailed eight thousand South African-manufactured semi-automatic 9mm pistols. A US arms broker, Michael Devlin and his wife were also arrested with the South Africans and charged with firearms smuggling and contravening the CAAA of 1986, according to which it was a federal offence to do military-related business with South African companies. The proposed transaction was also a violation of the embargo on the import of arms from South Africa specifically stipulated in the CAAA of 1986.

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89. F. Swart, Agente het in Dr. Piet se tyd op ambassade in Washington gespioeneer, *Beeld*, 29 March 1993, p. 4; S. Barber, US still spying on South Africa, *Sunday Times*, 4 April 1993, p. 5.



Armcor and the South African Department of Foreign Affairs both denied any involvement with Guckle and Baker.<sup>90</sup>

#### **6.5.4.2 The Lukman Case**

In June 1989, a rather unusual smuggling case was revealed when John C. Lukman, a US citizen, was sentenced in New Haven to 27 months in prison and a fine of \$20,000 for the illegal trade in rhino horns, leopard skins and Soviet-manufactured automatic weapons. Lukman was the head of an international rhino horn smuggling syndicate. At the time of his arrest, he attempted to smuggle two rhino horns, a stuffed leopard and an AK47 rifle into the US. This constituted violations of the law on endangered species and the CAAA of 1986, which prohibited the import of weapons from South Africa to the US.<sup>91</sup>

#### **6.5.4.3 US Technological Data via Germany**

In June 1990, a press report alleged that technological data on the US Star Wars project, a space missile defense system, had been exported to South Africa via Germany by a Los Angeles businessman, Ronald Hoffman. Hoffman was the owner of a company called Plume Technology. He was arrested on charges that he had send data and computer software pertaining to the Star Wars project to West Germany without a license. Armcor denied any knowledge of Hoffman or his alleged transfer of technological information to South Africa.<sup>92</sup>

#### **6.5.4.4 CIA complicity in South African-Iraqi arms deal**

In July 1991, the Bush Administration faced a difficult dilemma when it was alleged that the proposed head of the CIA, Robert Gates, had played a key role in the export of South African arms to President Saddam Hussein of Iraq, against whom Bush had declared war. If the allegations were true, it would have been a very serious allegation against Gates in the light of the arms embargo. Gates was appointed to the CIA in 1966, and was named by Bush as the proposed new head of the CIA. Gates'

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90. Anonymous, Arms sale riddle as two held in US, *The Star*, 23 May 1989, p. 2; Anonymous, Wapensmokkel-saak: G'n borgtog vir SA man in VSA, *Die Burger*, 29 May 1989, p. 5.

91. Anonymous, Yank smokkel met horings uit SA; gestraf, *Die Burger*, 17 June 1989, p. 13.

92. Anonymous, Krygkor weet niks van dié Yank, *Beeld*, 18 June 1990, p. 5.

appointment had to be approved by the US Senate, who had learned of his alleged complicity in the Iraq arms deal through allegations broadcasted over a television program called Frontline. A former member of the Israeli intelligence service, Ari Ben-Menashe, and a former member of the Iran intelligence service, Richard Babayan, accused Gates of being involved in the early 1980s with the export of 200 South African-manufactured G-5 howitzer guns to Iraq. Babayan alleged that he had met Gates several times in Genève and Washington over a secret mission to help Saddam Hussein in his war against the Ajatolla Khomeini of Iran. According to Babayan, Reagan approved the mission. Babayan further alleged that Gates had suggested that he establish contact between Iraq and South Africa. The result was the export of South African heavy artillery, anti-aircraft artillery and howitzers in exchange for Iraqi oil.<sup>93</sup> Despite the allegations, Gates went on to become the Director of the CIA.

#### 6.5.4.5 The case of Willem Louw

In 1992, a South African named Willem Louw, along with three other persons, Menachim Rosenfeld, T. Rosenfeld and Satish Shah were arrested in Germany and extradited to the US on charges that they had conspired to smuggle arms from the US, thereby violating the Export Control Act regulations governing the arms embargo. Louw and M. Rosenfeld were also accused of channeling money in the process in a manner that would conceal the origin thereof. M. Rosenfeld pleaded guilty and was sentenced to twelve months in prison. Apparently, M. Rosenfeld resided in South Africa, because it was ordered that he return to that country after his jail term expired. Louw was released on \$300,000 bail in December 1992 on provision that he remained in the US to stand trial in March 1993.<sup>94</sup> It is unclear whether he was found guilty and sentenced.

## 6.6 CONCLUSION

As stated in the introduction to this chapter, the Bush Administration could be regarded as a watershed in global politics. It was during the Bush Administration's term that the wall of resistance of white minority rule in South Africa crumbled. The majority of the credit for this should not go to the Bush Administration, however. Many factors worked together to make it happen. Nonetheless, the pressure from the US in the form of the

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93. F. Swart, SA wapens kan nuwe CIA-hoof kelder, *Beeld*, 17 July 1991, p. 4.

94. F. Swart, SA man in VSA uit op R1 m-borgtog, *Rapport*, 13 December 1992, p. 2.

arms embargo, economic sanctions and public renouncement of apartheid should not be underestimated. It definitely had an influence.

When Bush became US President in 1989, a global political earthquake was already starting to occur. Soviet communism crumbled and consequently also the Berlin Wall, which symbolically represented a barrier between communist Eastern and democratic Western Europe. In Southern Africa, Namibia gained independence after many years of administration by South Africa that had led to numerous outcries and United Nations resolutions against the latter. In the Middle East, the continuing Israeli/Palestinian conflict blocked every effort to put a peace plan on the table, and Saddam Hussein of Iraq was being accused of gross human rights violations and the procurement of weapons of mass destruction. It was especially the latter that demanded the attention of the Bush Administration for its entire four years in office. After Hussein annexed neighboring oil-rich Kuwait, the US declared war, resulting in Operation Desert Storm and the Gulf War. Furthermore, the US wanted to make its mark as the superpower that ended the proliferation of weapons of mass destruction, e.g. nuclear weapons and ballistic missiles. Thus, the Bush Administration spent much energy on convincing countries to adhere to a new global initiative, the Missile Technology Control Regime (MTCR). All these occurrences kept the Bush Administration very busy, in fact, too busy to give focused attention to South Africa. One got the impression that South Africa was very low on the priority list of the Bush Administration, especially when compared with the efforts of the preceding Reagan Administration. Unlike Reagan, Bush, who had been Reagan's Vice-President, was happy to contend with the legal requirements of the CAAA of 1986, which stipulated that South Africa had to adhere to five specific prescriptions before sanctions could be lifted. This was despite the fact that the Bush Administration on various occasions stated that it was increasingly optimistic about the political transformation taking place in South Africa. However, when these public statements were due to be translated into practical encouragement from the Bush Administration, it was quick to say that F.W. de Klerk had to be given time to implement his reforms, and in the meantime, the US embargoes and sanctions would remain.

The Bush Administrations' happy adherence to the punitive measures against South Africa was also evident from the way in which it implemented the arms embargo. Many cases of illegal procurement of US military technology and items, which had been

concealed for years, were revealed during the Bush Administration. This in itself speaks of a commitment and dedication of Administration officials to implement the arms embargo strictly. One specific case, the International Signal Control case, left politicians and officials especially baffled because of its enormity and concealment during the entire Reagan Administration. What started out as an arguably small investigation turned up a masterplan of smuggling to South Africa. The revelation of the smuggling activities led the Bush Administration to an action that had been unprecedented during all the years that the arms embargo was in effect: indictments against three South African firms and seven South African citizens, in addition to the US compliants in the smuggling. In all the revealed cases since 1977, when the mandatory arms embargo was instituted, it was only the US firms and individuals that had been convicted. The ISC-Armscor case thus also symbolized a watershed in US judicial prosecution.

The ISC-Armscor case was not resolved during the Bush Administration, but rolled over far into the Clinton Administration, with far-reaching consequences. In other cases that was revealed during the Bush Administration, the guilty parties did not get away with relatively light sentences, as was the case during the Carter Administration and the Reagan Administration's first term. Furthermore, Bush did not hesitate to slap Armscor with even more sanctions after it became known that it had collaborated with Israel in the development of ballistic missiles and that much US equipment were obtained for this program, in violation of the US Arms Export Act. The fact that sanctions were waived for Israel, speaks for itself about the commitment of the Bush Administration to the implementation of the arms embargo against South Africa. On the other hand, the reforms taking place in South Africa should have convinced the Bush Administration that there was no turning back in that country. Still, it chose to play safe and adhere to the law books, whereas with Israel, it waived the law books because of a fear that it might jeopardize the Middle East peace process. Ironically, South Africa was also involved in a peace process, with much more major turnabouts than what was happening in Israel. The difference perhaps was that a settlement in the Middle East peace talks would bear a clear US involvement stamp, whereas with South Africa, the Bush Administration could not say the same. After many years of embargoes and sanctions, the change in South Africa came from within. Also, Israel declared that it would adhere to the MTCR, which, as said, was a showcase of US influence. South Africa refused compliance, and was therefore punished.

## CHAPTER 7

### THE CLINTON ADMINISTRATION AND THE END OF THE ARMS EMBARGO, 1993-1998

#### 7.1 INTRODUCTION

Bill Clinton became the President of the United States after the Democratic Party won the elections at the end of 1992. It was the first Democratic Party government since that of Carter from 1977 - 1980. The Clinton Administration witnessed the remarkable transition from apartheid South Africa to a democratic South Africa in April 1994, when Nelson Mandela became the country's first black president. Cordial relationships with South Africa were restored during the Clinton Administration, and the remaining punitive measures against the country were lifted, including the United Nations arms embargo. The US arms embargo against South Africa was also lifted in 1993, but immediately re-instituted against Armscor and its affiliates. The reason for this was the festering sore that rolled over from the Bush Administration – the arms smuggling case for which Armscor, Kentron, Fuchs Electronics and seven South Africans were indicted in the US. While strong politico-military ties were being forged between the two countries, the Armscor case dominated the entire first term of the Clinton Administration, and almost led to a virtually irreparable tear in the foreign relations between the two countries.

#### 7.2 MISSILE DEVELOPMENT: SOUTH AFRICA SUCCUMBS TO US PRESSURE

In March 1993, the Clinton Administration gained what they regarded a victory with regard to its efforts to stop missile proliferation. After heavy pressure from the US, the South African Cabinet succumbed and agreed to scrap plans to build a long-range, solid-fuel rocket for its space satellite program. Many viewed the decision as part of a decision by Armscor in 1992 to 'clean up its act', as well as a signal of South African readiness to sign the MTCR. After the indictment against three South African companies, Armscor included, and seven individuals connected to Armscor in 1992 on illegal missile-related exports from the US, Armscor started telling the public that it was cleaning up its act in an effort to clear its image of being a company involved in illegal deals and controversial arms exports. Since 1992, the company went out of its way to

pledge that it would in future comply with global standards of acceptable conduct, thereby striving for international respectability.<sup>1</sup>

The US argued that the missile, which South Africa maintained was intended only to launch satellites, could be put to military use or sold to other countries that could use it to deliver warheads. However, according to sources within the US Government, it was not so much concerned with the possible military use of the missiles as the possibility that Armscor had developed it to make money, without concern for the type of clients who might buy it, i.e. enemies of the US like Libya or Cuba. In the light of these fears, sanctions against Armscor were instituted in 1992.<sup>2</sup> When asked if the sanctions would be lifted if South Africa would submit to the rules of the US concerning the production of a new long-range, solid-fuel missile, Clinton Administration officials said that Armscor complicity would significantly reduce the problem, but unfortunately the issue was not so simple, therefore the sanctions would remain for the remainder of the two-year period for which it was instituted.<sup>3</sup>

### 7.3 DE KLERK'S DISCLOSURE OF THE SOUTH AFRICAN NUCLEAR WEAPONS PROGRAM

Following the decision to end its missile development program, South African President De Klerk in March 1993 confirmed long-time suspicions that the South Africa had developed nuclear weapons when he announced in Parliament that South Africa had built six crude nuclear bombs during a top secret fifteen-year program. The country was working on a seventh nuclear bomb when it was decided to dismantle the arsenal. According to De Klerk, the program was one of the nuclear era's most closely guarded secrets. More than 1,000 people had worked on the program over the years, yet details thereof never leaked. Only physicists, chemists and engineers who were South African born citizens or had lived in the country for at least fifteen years were allowed to join the program, and no more than ten people were allowed to know all the secrets. The

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1. F. Swart, SA los missiel weens 'swaar druk' van VSA, *Beeld*, 26 March 1993, p. 9; Anonymous, Are missiles on target? *The Sunday Star*, 28 March 1993, p. 26; P. de lonno, Demand to quiz SA arms dealers, *Sunday Times*, 20 March 1994, p. 15; M.A. Hiltzik, Arms dealer takes aim at respectability, *Los Angeles Times*, 4 July 1992, p. A14; B. Keller, South Africa says it built 6 atom bombs, *The New York Times*, 25 March 1993, p. A1.
  2. See Chapter 6, Section 6.5.2.6, pp. 338-339.
  3. F. Swart, SA los missiel weens 'swaar druk' van VSA, *Beeld*, 26 March 1993, p. 9; Anonymous, Are missiles on target? *The Sunday Star*, 28 March 1993, p. 26; B. Keller, South Africa says it built 6 atom bombs, *The New York Times*, 25 March 1993, p. A1.

cost of the program was concealed in several budget accounts for nuclear energy development and the military. It was started in 1974 by Prime Minister John Vorster, at the urging of his Defense Minister, P.W. Botha. Only a handful of top ministers knew about the program. De Klerk himself only learned of the program after becoming the Minister of Energy in the early 1980s.<sup>4</sup>

The decision to embark on the program was made against the background of a Soviet expansionist threat in Southern Africa, South Africa's international isolation and the fact that it could not rely on outside assistance in the event of an attack. After De Klerk became State President in 1989, the devices were destroyed, the plant for making highly enriched uranium was closed, the uranium fuel was downgraded to make it unsuitable for weapons, and the blueprints were destroyed. According to De Klerk, South Africa was the first and only country to destroy its nuclear arsenal, because of the waning cold war and the withdrawal of Cuban troops from Angola, which eased the sense of menace. De Klerk emphasized that South Africa had never tested the nuclear bombs, and never intended to use them. Although South Africa had indeed sunk 200 meter deep by one-meter wide shafts in the Kalahari Desert for underground nuclear testing, the project was ceased when both the Soviet Union and the US protested in August 1977. In 1987, one of the two shafts was reopened and inspected. A hangar was erected over it for easy maintenance in case a decision was made to conduct an underground test.<sup>5</sup>

Following on the emphasis that South Africa had never tested nuclear bombs, De Klerk embarked on an explanation of what the country instead intended. In the case of a military threat, a three-phase strategy would kick in. As long as the military threat remained remote, the South African Government would remain in phase one, i.e. nuclear ambiguity, which meant that nuclear capability was neither acknowledged nor denied. If Soviet or Soviet-backed forces threatened to invade South Africa or Namibia, the

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4. B. Keller, South Africa says it built 6 atom bombs, *The New York Times*, 25 March 1993, p. A1; Anonymous, News summary: Pretoria built nuclear bombs; Old suspicions confirmed, *The New York Times*, 25 March 1993, p. A2; P. Liberman, The rise and fall of the South African bomb, *International Security* 26(2), Fall 2001, p. 56; D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6.
  5. B. Keller, Building (and dismantling) a threat, *The New York Times*, 28 March 1993, p. D2; Anonymous, Bombs away, *Economist*, 27 March 1993, p. 1; D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6; Anonymous, De Klerk: South Africa had the bomb, *Africa Report* 38(3), May-June 1993, p. 6; P. Liberman, The rise and fall of the South African bomb, *International Security* 26(2), Fall 2001, p. 56; R.J. Smith, South Africa's 16-year secret: The nuclear bomb, *The Washington Post*, 12 May 1993, p. A1.



Government would implement phase two, the covert disclosure, which involved acknowledging nuclear capability to relatively friendly Western nations in the hope of eliciting their intervention. If they expressed doubts about the existence of South Africa's nuclear arsenal, they would be invited to send inspectors to view the arsenal. If this still failed to convince them to intervene on South Africa's behalf, the latter would threaten to detonate a nuclear device underground. If this also failed and the situation deteriorated further, the Government would move to phase three – the overt disclosure. This comprised three steps. First, South Africa would publicly declare its capability or conduct an unannounced underground test. If this did not work, as second step a nuclear bomb would be detonated 1,000 kilometers south over the ocean. The last step would then be to threaten to use the nuclear weapons on the battlefield in an act of self-defense. Concerning the Vela incident of 1979, De Klerk denied again that South Africa had been involved, saying that the South African Government had never been able to pin down whether it had been a nuclear explosion.<sup>6</sup>

De Klerk further insisted that South Africa had devised and built the nuclear bombs without the assistance of other countries. This contradicted the strong suspicion of many experts and diplomats that at least Israel collaborated in the development of South Africa's nuclear program, particularly in the uranium enrichment effort. Israel was alleged to have provided the assistance in exchange for supplies of enriched South African uranium. Later research showed that even if there was no direct outside collaboration, the program was nonetheless embargo busting, because by the end of 1980s, South Africa had a long list of imported machine tools, furnaces and other equipment for its nuclear weapons program. Many of these originated in the US. The majority were not proscribed by international nuclear export controls, but they were nonetheless imported in violation of the arms embargo and other sanctions against South Africa, which prohibited nuclear cooperation in any form. In his announcement speech, De Klerk said that he had decided to disclose details of the nuclear weapons program to dispel suspicions that South Africa was withholding information, which might have threatened South Africa's commercial sales of medical isotopes and non-military nuclear technology. As part of this disclosure, the IAEA would be given access

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6. B. Keller, South Africa says it built 6 atom bombs, *The New York Times*, 25 March 1993, p. A1; B. Keller, Building (and dismantling) a threat, *The New York Times*, 28 March 1993, p. D2; P. Liberman, The rise and fall of the South African bomb, *International Security* 26(2), Fall 2001, p. 56; Anonymous, Bombs away, *Economist*, 27 March 1993, p. 1; D. Albright, South Africa and the affordable bomb, *Bulletin of the Atomic Scientists* 50(4), July/August 1994, pp. 37-48; R.J. Smith, South Africa's 16-year secret: The nuclear bomb, *The Washington Post*, 12 May 1993, p. A1.

to all sites and documents pertaining to the program, including previously undisclosed records, and an audit that accounted for every gram of nuclear material.<sup>7</sup> In his own words: “*South Africa’s hands are clean and we are concealing nothing*”.<sup>8</sup>

After De Klerk’s announcement, many wondered what had convinced him to come clean on South Africa’s nuclear weapons development. There was one main reason: pressure from both the ANC and the US, who charged that South Africa had possibly hidden nuclear bomb components and manufacturing plants, and that it had been evasive about its stockpile of weapons-grade uranium. The charges were the result of a series of events involving IAEA inspectors that were sent to South Africa after the country had signed the Nuclear Non-proliferation Treaty. Under the Treaty, South Africa had to declare its nuclear inventory to the IAEA, whose job it was to check that Treaty members did not divert nuclear materials for military purposes. In October 1991, in accordance with its Treaty commitments, South Africa provided the IAEA with an inventory of all its nuclear materials and all the facilities that contained such materials as of 30 September 1991. To ease the task of the IAEA investigators, extensive historical production information from the enrichment plants was provided, including detailed information on the Y Enrichment Plant at Valindaba. Furthermore, access was offered to whatever facilities the IAEA asked to inspect. In the following months, IAEA inspectors scoured the country in order to determine whether the inventory and other information given to them were correct.<sup>9</sup>

During the investigation, the IAEA officials learned that South Africa had produced at least 200 kilograms of weapon-grade uranium. Given the high cost of production, the size of the stockpile renewed suspicions that South Africa had a nuclear bomb program. Accordingly, the IAEA inspectors visited the site in the Kalahari where South Africa planned to build an underground nuclear test site. Soil samples by the officials showed that the site had never been used for the detonation of a nuclear bomb. Thereafter, the

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7. B. Keller, South Africa says it built 6 atom bombs, *The New York Times*, 25 March 1993, p. A1; Anonymous, News summary: Pretoria built nuclear bombs; Old suspicions confirmed, *The New York Times*, 25 March 1993, p. A2; B. Keller, Building (and dismantling) a threat, *The New York Times*, 28 March 1993, p. D2; D. Albright, South Africa and the affordable bomb, *Bulletin of the Atomic Scientists* 50(4), July/August 1994, pp. 37-48; D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6.
  8. As quoted in B. Keller, South Africa says it built 6 atom bombs, *The New York Times*, 25 March 1993, p. A1.
  9. D. Albright & M. Hibbs, South Africa: The ANC and the atom bomb, *Bulletin of the Atomic Scientists* 49(3), April 1993, pp. 32-38; D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6; Anonymous, Bombs away, *Economist*, 27 March 1993, p. 1.

investigation proceeded to the Y Plant at Valindaba, where South Africa had produced highly enriched, weapons-grade uranium since January 1979. Here it was found that the material accounting system at the plant was not complete or accurate enough to verify its inventory. For example, the plant lacked a formal measurement control program for the tails or waste stream of the plant. This made it difficult to verify how much weapons-grade uranium was actually produced. Furthermore, in the early years of the plant, it operated without adequate tails monitoring equipment. Thus, IAEA attempts to assay the tails stored in waste tanks at the Y-plant had been only partially satisfactory, thus creating discrepancies. This raised suspicions even more, especially in the light of a US official saying that South Africa had run its nuclear plants in a similar way to the US had run its nuclear weapons facilities, i.e. to maximize output. Had the US signed the Nuclear Non-proliferation Treaty as a non-weapons state, there would also have been discrepancies in its inventory. This evidenced that South Africa had indeed developed nuclear weapons. After the discrepancies at the Y Plant, the IAEA acted on US intelligence information directing them to Building 5000 at the Pelindaba nuclear site. After asking for access to the building, the South African Atomic Energy Agency told the IAEA that the building was a general-purpose critical facility and part of its reactor development group, which was disbanded several years before. Building 5000 itself was said to be closed in the early 1980s. Inspection of the building revealed that it had performed nuclear weapons-related activities. It was found that the building had indeed been abandoned for several years, but the rusted equipment found there evidenced that it had been used to shape spherical fissile cores for a nuclear explosive device.<sup>10</sup>

The questions raised by the Y-plant discrepancies and the evidence found at Building 5000 led to the mentioned charges of the US Government and the ANC. In late December 1992, the ANC at a press conference demanded full disclosure of all present and past activities of the South African nuclear weapons program. The ANC alleged that continuation by the South African Government to act clandestinely and give ambiguous answers on all nuclear matters, undermined the important process of building the confidence of all South Africans in the process of democratizing the country. The US in turn believed that the South African Government was withholding information because it feared that the ANC would interfere with its efforts to sell off its inventory of

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10. Anonymous, Bombs away, *Economist*, 27 March 1993, p. 1; D. Albright & M. Hibbs, South Africa: The ANC and the atom bomb, *Bulletin of the Atomic Scientists* 49(3), April 1993, pp. 32-38; D. Albright, South Africa and the affordable bomb, *Bulletin of the Atomic Scientists* 50(4), July/August 1994, pp. 37-48.

weapons-grade uranium to the US. Without the stockpile, it would be very difficult for a future government to reverse course and build nuclear weapons.<sup>11</sup>

Some political experts described the non-proliferation efforts as being motivated by concern that the South African Government did not want any undeclared material or infrastructure falling into the hands of a future ANC government. In fact, evidence indicate that the US and other Western governments had put pressure on the South African Government to destroy any nuclear weapons technology and high grade uranium, before a new ANC government, with links to countries like Libya and Cuba, came to power. Therefore, after the signing of the Nuclear Non-proliferation Treaty, the South African Government had set as top non-proliferation priority the elimination of its weapons-grade uranium. The uranium was offered for sale to the US, whose officials had indicated that it was prepared to buy all South Africa's enriched uranium, including the weapons-grade stocks. The South African Government expected that the uranium would be placed under IAEA safeguards and kept out of the US' nuclear program. In exchange, South Africa would receive non-weapons grade, low-enriched uranium to use in its nuclear power reactors. However, since the CAAA of 1986's embargo on the import of South African weapons-related material was still in effect, such a transaction would be a breach of the embargo. Another elimination alternative entailed blending of the highly enriched uranium with enough natural or depleted uranium to produce a low-enriched product, but this was a slow process due to the necessary safeguards.<sup>12</sup>

When asked for details of the nuclear bomb program, Waldo Stumpff, chief executive of the South African Atomic Energy Corporation (AEC), said that South Africa already had a nuclear bomb by the end of the 1970s, but it was not tested. However, he said that there was no reason to believe that it would not have worked. He declined to reveal the size of the six bombs, but another AEC official, who declined to be identified, revealed that the bombs were large crude devices with an explosive power of 18,000 - 20,000 tons of TNT. The devices used a gun-type design, weighed about 1 ton, had a diameter of nearly 65 centimeters and a length of approximately 1,8 meters. Thus, they were very similar to the bombs that the US had dropped on Japan in the Second World War.

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11. D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6; D. Albright & M. Hibbs, South Africa: The ANC and the atom bomb, *Bulletin of the Atomic Scientists* 49(3), April 1993, pp. 32-38.

12. D. Albright & M. Hibbs, South Africa: The ANC and the atom bomb, *Bulletin of the Atomic Scientists* 49(3), April 1993, pp. 32-38; Anonymous, De Klerk: South Africa had the bomb, *Africa Report* 38(3), May-June 1993, p. 6.

As the devices were too large for delivery by artillery, they were designed to be dropped from British-made Buccaneer bombers. Later research showed that the first two nuclear devices were completed in 1978 and 1979, of which the first was dismantled for parts and the second equipped with measurement instrumentation. The second device remained dedicated for an underground test. In July 1979, the overall responsibility for the nuclear program was transferred to Armscor, after a high-level steering committee on nuclear weapons policy recommended the building of deliverable nuclear weapons in order to acquire a credible deterrent capability. The steering committee consisted of the Prime Minister, the Ministers of Defense, Foreign Affairs, Minerals and Energy, and Finance, and the chiefs of Armscor, the Department of Foreign Affairs, the Atomic Energy Board and the SADF. Armscor finished the third bomb, the first bomber-deliverable device, in 1982. Thereafter, further refinements in reliability, safety and delivery design delayed completion of the fourth device until August 1987. After that, production accelerated, so that the nuclear arsenal stood at six and a half by late 1989. The last three and a half devices were nuclear versions of Armscor's remotely guided H2 glide bomb, which allowed greater range and penetrability than ordinary gravity bombs.<sup>13</sup>

Concerning the nuclear facilities where the developments took place, many analysts had believed that the national nuclear research centre at Pelindaba was South Africa's only nuclear weapons manufacturing site. Great was the surprise when it became known after De Klerk's announcement that there was another, highly secret nuclear weapons manufacturing site 25 kilometers west of Pretoria. The site was originally known as the Kentron circle facility, but later became known as Advena. It was built during the 1980s and had extensive manufacturing capabilities aimed at building a reliable gun-type nuclear weapon deliverable by aircraft. Initially, when the nuclear weapon development was still under the auspices of the AEC, highly enriched uranium was produced at the Valindaba Y-Plant since January 1978. Natural uranium slurry, also called yellowcake, was collected from gold mines and converted to uranium hexafluoride gas, which was then fed into 112 separating units connected in parallel in three long, camouflaged buildings at Valindaba. The separators isolated and concentrated a key fissionable

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13. B. Keller, South Africa says it built 6 atom bombs, *The New York Times*, 25 March 1993, p. A1; B. Keller, Building (and dismantling) a threat, *The New York Times*, 28 March 1993, p. D2; P. Liberman, The rise and fall of the South African bomb, *International Security* 26(2), Fall 2001, pp. 53-54; D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6.

isotope, uranium-235, and roughly after a year, produced significant quantities of a uranium gas enriched to slightly less than ninety percent, i.e. weapons-grade uranium. Technical problems however forced the closure of this plant from 1979 to 1981, when production started again in the same manner. Early nuclear manufacturing was done at Building 5000. It is believed that the first nuclear device was prepared there. In 1979, when the responsibility for manufacturing was shifted to Armscor, the AEC continued to be involved as uranium-provider. Armscor started building a facility at Advena, and the main manufacturing building and an environmental test facility were finished in 1981. The environmental test facility was used for testing the reliability of the nuclear device under real-world conditions, which was particularly important because full-scale nuclear testing were never intended.<sup>14</sup>

The first nuclear device at Advena was completed in April 1982. Later, in the mid-1980s, Armscor investigated a mobile nuclear intermediate range ballistic missile option. These were paper-based studies investigating how the bombs could be adapted into warheads for missiles from the South African ballistic missile program. In the light of this, a new weapons plant consisting of about ten new buildings, known as Advena Central Laboratories, was started in 1987 and completed just before the nuclear program ended in 1989. The plant was capable of manufacturing two to three more advanced warheads per year and loading them onto missiles. At the time that the nuclear program ended, an even longer-range, intercontinental ballistic missile was on Armscor's drawing boards. However, the Government had by that time not yet authorized the physical development of ballistic missile warheads. By late 1988, both international and domestic changes had made the nuclear deterrent superfluous, and in the opinion of De Klerk, an obstacle to the development of South Africa's international relations. Accordingly, in late 1989 the Government decided to close the Y Plant, which happened in February 1990. The final-step equipment that was used to enrich uranium to bomb-grade was dismantled and removed. In early 1990 a decision was also made to dismantle and destroy the nuclear weapon arsenal and to return all nuclear material in Armscor's possession to the AEC. Armscor's facilities were accordingly decontaminated and dedicated to non-nuclear commercial purposes, e.g. high-tech products for the aerospace, mining, medical, and other industries. Dismantling took place under the joint

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14. D. Albright, A curious conversion, *Bulletin of the Atomic Scientists* 49(5), June 1993, pp. 8-12; R.J. Smith, South Africa's 16-year secret: The nuclear bomb, *The Washington Post*, 12 May 1993, p. A1.



control of Armscor and the AEC, and the process included accounting for all the nuclear material and destroying all available technical nuclear weapons-design documents, drawings, computer software and other data.<sup>15</sup>

De Klerk's announcement was welcomed and praised by the Clinton Administration, who noted that the Nuclear Non-proliferation Treaty did not specifically require such a candid disclosure. The Administration stated that the US had long suspected that South Africa had developed nuclear weapons and that De Klerk's announcement was consistent with US assessment. However, this assessment was primarily based on an analysis of the quantities of enriched uranium South Africa had produced and not on direct intelligence on the number of weapons that the country had manufactured. In this regard, De Klerk had told them something new. Some experts within the Administration said that they needed to learn more about the program to be sure that all the devices were destroyed. Some other officials expressed skepticism about De Klerk's assertion that no outside nation had assisted in the nuclear program, although disagreement remained among these officials about the extent of possible Israeli-South African military cooperation. Also, some questions remained, e.g. whether South Africa's statement that it had destroyed all of its nuclear devices and downgraded the uranium it contained, could be confirmed. In response to these questions, the IAEA said that some of its inspectors were already in South Africa and would visit all the facilities that had not been visited yet. On 25 March 1993, three IAEA inspectors visited the Advena facility. There they found nuclear material casting and machining workshops, high security vaults, high-explosive test cells, and an environmental testing facility. Facility personnel told them that all the specialized equipment used in the nuclear weapons program had been removed and destroyed and that the casting and machining workshops had been fully dismantled. Documentation on the dismantling and accountancy records had however not been destroyed and were made available to the inspectors.<sup>16</sup>

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15. D. Albright, A curious conversion, *Bulletin of the Atomic Scientists* 49(5), June 1993, pp. 8-12; D. Albright, Slow but steady, *Bulletin of the Atomic Scientists* 49(6), July/August 1993, pp. 5-7; P. Liberman, The rise and fall of the South African bomb, *International Security* 26(2), Fall 2001, p. 54; D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6.
  16. Anonymous, De Klerk: South Africa had the bomb, *Africa Report* 38(3), May-June 1993, p. 6; M.R. Gordon, Washington welcomes de Klerk disclosure, but wants more details, *The New York Times*, 25 March 1993, p. A12; Anonymous, News summary: Pretoria built nuclear bombs; Old suspicions confirmed, *The New York Times*, 25 March 1993, p. A2; B. Keller, Building (and dismantling) a threat, *The New York Times*, 28 March 1993, p. D2; D. Albright, South Africa comes clean, *Bulletin of the Atomic Scientists* 49(4), May 1993, pp. 3-6.



There was also skepticism from non-Government entities and persons. *U.S. News and World Report* had questions about the roles that the US and Israel played in the nuclear weapons development. Concerning the US, the paper questioned its complicity during the Reagan Administration in its drive to thwart communist expansion in Africa. *The New York Times* in turn quipped that the South African Government had not yet done enough to reassure a troubled world. It had remained tight-lipped about the fate of the fissile material and other bomb components it may have produced. Also, it had yet to reveal its nuclear cooperation with other countries – i.e. where it had acquired the uranium, technology and know-how to build the bombs. The ANC questioned the quick disposal of the nuclear material and documents, fearing an attempt to cover up important evidence. Furthermore, they did not believe De Klerk's claim that there had been no foreign assistance, and therefore would not believe South Africa's hands were clean until all details of the weapons program had been disclosed. South African newspaper *Beeld* suggested that one of the main reasons why the South African Government decided to dispose of the six nuclear bombs was fear that a future ANC government with links to Libya, the Palestinian Liberation Organization (PLO) and Cuba could decide to sell a nuclear bomb to these enemies of the US. Therefore, the US Government had probably pressurized De Klerk to destroy the bombs, even though South Africa had never acknowledged that it had manufactured nuclear weapons. It only acknowledged that it had the ability. Another reason suggested by *Beeld*, as already confirmed by De Klerk, was the political developments in the Soviet Union and the changed situation in Angola, which made it unnecessary for South Africa to have a deterrent like an nuclear bomb.<sup>17</sup>

*Beeld's* opinion about the ANC obtaining a nuclear bomb was also a concern of Helmoed Römer-Heitmann, a representative of *Jane's Defence Weekly*. He alleged that in the previous few years, there had definitely been growing concern in the West about the ANC obtaining a nuclear bomb. According to him, the reason for the fear was that the ANC was too friendly with the leaders of Libya, the PLO and Cuba. In his opinion, the US had pressurized De Klerk to destroy the nuclear bombs – a situation of saying 'if you don't do it, we will do it for you'. In addition, Pakistan was working on a nuclear project

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17. Anonymous, Bomb, bomb, who had the bomb? *U.S. News and World Report* 114(13), 5 April 1993, page unknown (Online); Anonymous, South Africa's unexploded bombs (Editorial), *The New York Times*, 27 March 1993, p. 20; Anonymous, De Klerk: South Africa had the bomb, *Africa Report* 38(3), May-June 1993, p. 6; L. Louw, Waarom bomme gebou is ... en waarom dit nou afgetakel is, *Beeld*, 26 March 1993, p. 9.

and Libya was moving in that direction. Thus, the US and other Western countries feared a so-called 'Islamic bomb' being planned and developed by countries like Egypt, Libya and Saudi Arabia. Yet another speculation by *The Sunday Star* was linked to the US pressure on the South African Government to end its missile program, because of fears that the missiles could be sold to countries like Iraq, Iran or Libya, who would use it to deliver nuclear payloads against the US. The paper suggested that De Klerk, by proving that South Africa was nuclear friendly, hoped to capture the moral high ground in the missile dispute.<sup>18</sup>

### 7.3.1 SUSPICIONS AND SPYING ACTIVITIES BY THE CLINTON ADMINISTRATION

Although the South African Government received praise from the Clinton Administration for its decision to come clear on South Africa's nuclear weapons program, a spying incident in early April 1993 indicated that it was still suspicious whether South Africa had fully disclosed everything with regard to the program. The incident involved the South African newspaper *Sunday Times* and an Embassy official of the Clinton Administration. The official had approached the newspaper's picture editor to buy photographs taken inside the Y-plant of the Valindaba nuclear facility, where uranium was upgraded to weapons grade and used in South Africa's six nuclear devices. The *Sunday Times* had published some of the photographs. After being asked if the photographs were intended for use by US intelligence agents, the official replied that they just wanted to look at them, as they were keeping an eye on things. The *Sunday Times* refused the request.<sup>19</sup>

After the incident, it was determined that despite public rapprochement between the US and South Africa, the latter was still on a highly sensitive watch list maintained by US intelligence and police agencies. Up until the mid-1980s, the South African Embassy in Washington, D.C. and its personnel were kept under the type of surveillance reserved for hostile powers like the Soviet Union, called the criterion list. As discussed, intelligence efforts then moved on to the planting of listening devices in the Embassy, which were discovered in late 1991. During this time, especially after the murder of

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18. L. Louw, *Waarom bomme gebou is ... en waarom dit nou afgetakel is*, *Beeld*, 26 March 1993, p. 9; Anonymous, *Are missiles on target?* *The Sunday Star*, 28 March 1993, p. 26.

19. S. Barber, *US still spying on South Africa*, *Sunday Times*, 4 April 1993, p. 5.

ANC member Dulcie September in France in March 1988, the US apparently came close to calling South Africa a terrorist state. However, it had seemed that the intelligence efforts had started to ease under the Clinton Administration, to the point where South Africa could be removed from the criterion list. Yet, after the incident with the *Sunday Times*, when asked whether South Africa remained on the criterion list, a Clinton Administration official said that he believed it was. After he checked if it was indeed the case, he simply said that he could not discuss the issue further, thereby indicating that the matter was still extremely sensitive.<sup>20</sup>

In mid-1994, it was reported that IAEA inspectors were allowed access to all South Africa's old nuclear sites and extensive data on its uranium production. It was found that there were still some leftovers from the six and a half nuclear bombs that had the danger to fuel nuclear proliferation elsewhere. This included some 400 kilograms of uranium extracted from the dismantled warheads. The uranium was placed under international safeguards. As discussed, in 1992 De Klerk offered to sell South Africa's weapons-grade uranium to the US. Bush Administration officials expressed interest, but asked to delay the discussions until after the November 1993 US elections. Bush lost the elections, and the Clinton Administration only focused on the offer in mid-1993. By this time, South Africa had decided to downgrade the uranium to use in its commercial nuclear reactor. Furthermore, a stringent new law regulating the export of nuclear and missile technology had been enacted, but was not yet fully instituted. Both disclosures held a threat, especially because South African nuclear weapons experts were being laid off, with sixteen of them threatening to sell secrets to the highest bidder unless they received a severance package of several millions of Rands. They allegedly already had foreign agents making them offers. Also, the country still had its weapons-grade uranium. This raised new fears in the US that some of the South African technology and weapons-grade uranium could end up in the hands of its enemies, in spite of the embargo on the import of South African military technology and products.<sup>21</sup>

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20. S. Barber, US still spying on South Africa, *Sunday Times*, 4 April 1993, p. 5.

21. G. Cerio & L. Howard, A bungled nuclear deal, *Newsweek* 124(4), 25 July 1994, p. 2; Anonymous, South Africa's other deadly legacy, *The New York Times*, 12 May 1994, p. A24.

#### 7.4 STORM OVER SOUTH AFRICAN EFFORTS TO BUY AIRCRAFT

In May 1993, an incident with regard to South African efforts to buy new aircraft for its Air Force, indicated that the Clinton Administration was not yet prepared to show South Africa some leniency. A storm broke loose over South African efforts to buy Swiss-manufactured Pilatus PC-7 training aircraft. Despite the fact that Switzerland was not a member of the United Nations, the Security Council in February 1993 made a public appeal to the country to prevent the sale of the aircraft to South Africa. The appeal was made on the basis of Switzerland having committed itself formally to adhering to the arms embargo, even as non-member of the United Nations. The appeal stated that the sale would be contrary to the spirit and intent of Resolution 418 (1977) by which the mandatory arms embargo against South Africa was instituted. It was furthermore pointed out that Resolution 591 (1986) urged all states to prohibit the export of aircraft, aircraft engines and engine parts to South Africa, if they had reason to believe that it was destined for the military and/or police force in South Africa. Lastly, Switzerland was reminded of the fact that it had previously adhered to similar decisions taken by the Security Council, e.g. against Iraq.<sup>22</sup>

Besides pressure on Switzerland, against whom the US could take no steps because it was not a member of the United Nations, pressure was also placed on Canada. The turbine engines of the Pilatus aircraft were manufactured by the Canadian division of the firm Pratt and Whitney, a subsidiary of the US firm United Technologies Corporation based in Hartford, Connecticut. In January 1993, the Canadian Government gave permission to Pratt and Whitney Canada to deliver sixty engines over one year to Switzerland for use in the aircraft that were to be sold to South Africa. In defense of the transaction, a spokesman for Pratt & Whitney Canada said that the engines were officially classified as civilian products, and could therefore be exported, even though it would be used in military training aircraft flown by members of the South African Air Force. But it was still a direct violation of the US arms embargo, which prohibited the export of US-origin type material or material manufactured by a US-affiliated firm to South Africa by a third country, if the exporter knew or had reason to believe that it would be used for military purposes. The Clinton Administration therefore attempted to

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22. M. Hough, Military sanctions against the RSA: Current and future prospects, *Strategic Review for Southern Africa* 15(1), May 1993, pp. 32-33; F. Swart, Stof lê nie oor vliegtuie – VSA wil transaksie verongeluk, *Beeld*, 5 May 1993, p. 6.

block the sale, thereby placing Canada in a moral dilemma. Much pressure was placed on the Canadian Government to revoke the decision, especially because the anti-apartheid groups in the US voiced their concern that the sale would go through in spite of being prohibited under the arms embargo. In their view, if the sale went through, it would mean that the arms embargo had come to nothing. The US Department of State shared this sentiment, stating in a letter to one of the anti-apartheid groups, American Committee on Africa, that they had voiced their opposition to the sale in the most serious terms and that they would continue with efforts to cancel the transaction.<sup>23</sup> These protests were to no avail, however, because sixty Pilatus Astra aircraft were eventually sold to South Africa at a cost of almost R10 million each.<sup>24</sup>

## 7.5 EFFORTS BY ARMSCOR TO GAIN US MILITARY BUSINESS

The Pilatus-drama did not dampen the dedication of the South African arms industry to make its mark on the global weapons market, especially now that political transformation in the country was beyond the point of return. In September 1993, Armscor took the initiative to offer its services and technology to the US and the United Nations as part of an effort to gain international respectability. The incident provided a glimpse into the differences of opinion within the Clinton Administration with regard to the arms embargo. It entailed a statement by Armscor that it would welcome an opportunity to supply the United Nations and the US with locally developed landmine-clearing technology, which they described as being the most sophisticated in the world. In the statement, Armscor alleged that in South Africa's 15-year involvement in warfare, which ended when the armed forces of both South Africa and Cuba were withdrawn from Angola, the country had developed advanced counter-measures against landmine threats. That made the South African mine-resistant vehicles and mine-lifting technology the most sophisticated in the world. The statement followed reports in the US that its officials, as well as those of the United Nations, were waiting for the lifting of the arms embargo against South Africa to enable them to use the country's landmine-clearing technology. US officials asserted that South African mine clearance systems were reliable but also cheap at a time when getting rid of landmines, described as hidden killers, had been identified as one of the most serious international security problems facing US and United Nations peacekeepers. In the light of this, South African

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23. F. Swart, Stof lê nie oor vliegtuie – VSA wil transaksie verongeluk, *Beeld*, 5 May 1993, p. 6.

24. E. Gibson, Ongelukke kos geld, sê VF+, *Beeld*, 30 September 2004, p. 5.

reporters suspected that once the arms embargo was lifted, South Africa could become a major foreign currency earner, given the estimated 85 million uncleared landmines in 62 countries, which killed or severely injured about 150 people a week. The South African landmine-clearing system was cheap and reliable and could clear long stretches of road in a short time, in comparison with international contractors charging more than R3 000 per mine in clearance operations. These operations were furthermore not always as effective as the South African system.<sup>25</sup>

The offer came in the wake of a unilateral and immediate moratorium by the United Nations on the international marketing and export of landmines.<sup>26</sup> However, despite the huge interest in the US, the embargo on arms imports from South Africa was still in place. Purchasing the landmine clearing system from South Africa would directly violate this embargo. The South African offer was therefore placed on hold until the arms embargo was lifted.

## **7.6 EVENTS BUILDING UP TO THE END OF THE US ARMS EMBARGO**

### **7.6.1 THE DEBATE OVER SANCTIONS, YET AGAIN**

The differences among the officials in the Clinton Administration on the implementation of the arms embargo could be viewed as but one aspect of a much larger issue, namely the ongoing debate whether sanctions worked or not. At the start of the Clinton Administration at the beginning of 1993, all signs pointed to a satisfactory end to apartheid in South Africa and the possibility of the lifting of all sanctions against the country, including the arms embargo. It seemed certain that Clinton would be able to normalize relations after a long range of US presidents who had to implement the embargo.

Many viewed the arms embargo and the economic sanctions against South Africa as a test; a benchmark against which the future imposition of sanctions could be measured. South Africa presented a case study of sanctions in various forms that had run their course. After the arms embargo and economic sanctions against South Africa were

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25. S. Bothma, Demand for SA expertise, *Business Day*, 6 September 1993, p. 3; P. de Ionno, Demand to quiz SA arms dealers, *Sunday Times*, 20 March 1994, p. 15.

26. S. Bothma, Demand for SA expertise, *Business Day*, 6 September 1993, p. 3.

instituted, the US went on to impose official sanctions of one kind or another against a dozen countries as a way of punishing a misbehaving state. Yet the question remained – did they work? The difference in opinion remained in the wake of the agreement of the South African Government in the first week of September 1993 to submit to the oversight of a multiparty council in the months before South Africa's first democratic election in April 1994. The agreement made the transition to democracy all but irreversible, leading the ANC to a point of being on the verge of calling off all the penalties that the world had imposed against apartheid. Some argued that the arms embargo and economic sanctions had forced the South African Government to the point of agreement, while others argued that while the measures had powerful consequences, there was no consensus that the results were quite what were intended. Other factors also had to be taken into consideration: the riots and guerrilla war waged by the ANC; the ascent of more sophisticated and pragmatic Afrikaners like F.W. de Klerk; the collapse of communism and the Soviet Union, which had so terrified the South African whites; the shame of sports and cultural boycotts; and lastly the self-defeating folly of the ideology of apartheid, which tried to make foreigners of the country's black inhabitants.<sup>27</sup>

The ANC contended that the arms embargo and economic sanctions had helped to hasten the end of apartheid through a combination of psychological and economic pain, while critics maintained that while the sanctions worked to a certain extent, economic growth would have worked better, and would have left the next Government with a healthier country to run. The critics contended that sanctions have slowed down the bigger engine, i.e. the factors already mentioned in the previous paragraph, which was already breaking down apartheid. On the other hand, the sanctions ricocheted with many unpredicted effects. One of these was the fact that South Africa, being cut off from foreign military supplies through the arms embargo, succeeded in building up one of the seven or eight largest armaments industries in the world and becoming an exporter of sophisticated weapons.<sup>28</sup>

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27. B. Keller, Sanctions may have worked, at a price, *The New York Times*, 12 September 1993, p. D5; M. Jhangiani, Mandela may lift boycott; U.N. expects to get call to end sanctions, *St. Louis Post-Dispatch*, 24 September 1993, p. 11A.

28. B. Keller, Sanctions may have worked, at a price, *The New York Times*, 12 September 1993, p. D5; Anonymous, South Africa's good deeds are rewarded, *St. Louis Post-Dispatch*, 11 October 1993, p. 14B.



## 7.6.2 THE WORLD-WIDE END OF ECONOMIC SANCTIONS AGAINST SOUTH AFRICA

In 1993, Nelson Mandela of the ANC indicated that he would call for an end to the economic sanctions against South Africa once the South African Government agreed to set up an executive council to oversee the country's transition into a non-racist society. In late September 1993 that condition was met when the South African Parliament approved plans for a transitional government that included blacks. Mandela followed this up with a call at the United Nations on 24 September 1993 for the lifting of all remaining economic sanctions against South Africa, after proclaiming that the countdown to democracy in South Africa had begun.<sup>29</sup>

In his speech before the United Nations, Mandela said that the ANC believed that in order to strengthen the forces of democratic change and to help create the necessary conditions for stability and social progress, the time had come for the international community to lift all economic sanctions against South Africa. The call led to governments and cities almost immediately initiating measures to end all economic sanctions against South Africa. However, the arms embargo remained in effect. Because it was instituted by the Security Council, they had to act to remove it. Furthermore, Mandela did not call for an end to the arms embargo. The decision to leave the arms embargo in place for the time being was generally claimed worldwide as being a wise decision. Many felt that the intense black-on-black violence and the racial attacks by black and white extremists that were still riding the high tide in South Africa should not be fuelled by arms from the outside world. Yet, a few months later, in January 1994, the Clinton Administration indicated that it might lift some aspects of its arms embargo faster than was expected, when it was announced that a senior delegation of the US defense headquarters, the Pentagon, would visit South Africa for the first time in 30 years. The delegation consisted of ten members and the purpose of the visit was to help South Africa to integrate its defense force. Similar visits were prohibited since 1963 as part of the US' implementation of the voluntary and mandatory arms embargoes.<sup>30</sup>

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29. M. Jhangiani, Mandela may lift boycott; U.N. expects to get call to end sanctions, *St. Louis Post-Dispatch*, 24 September 1993, p. 11A; P. Lewis, Mandela calls to an end to sanctions, *The New York Times*, 25 September 1993, p. A1

30. Anonymous, South Africa's good deeds are rewarded, *St. Louis Post-Dispatch*, 11 October 1993, p. 14B; D. Olojede, Mandela asks world to end sanctions, *Newsday*, 25 September 1993; Anonymous, Pentagon-groep gaan SA vir eerste keer in 30 jaar besoek, *Beeld*, 5 February 1994, p. 2.

But despite the above-mentioned visit, the continuing arms embargo violation case against Armscor, Kentron, Fuchs Electronics and seven South African individuals indicated that the US would not move fast to lift the arms embargo completely. It would be remembered that on 31 October 1991, the mentioned firms and individuals were indicted for conspiracy with the US firm ISC to violate the US Export Control Act by exporting military-related items to South Africa. The South African firms and individuals refused to stand trial in the US, and the case rolled over into the Clinton Administration.<sup>31</sup>

In March 1994, Armscor offered to come clean on its involvement in hi-tech weapons smuggling to Iraq and China and to pay R6 million in fines to protect the seven individuals against US Grand Jury criminal indictments. Since the dispute had carried on since November 1991, Armscor was so anxious to settle it that it was prepared to allow the seven individuals to give evidence in the US on one condition: they had to be given immunity from imprisonment. It was the first time that Armscor admitted to breaking US law. But US prosecutors, led by Assistant US Attorney General Robert Goldman, refused to cut a deal unless Armscor made a full disclosure about the identity and activities of its US suppliers for the previous five years. Armscor then considered turning to the ANC to intervene in order to resolve the dispute, while the South African Department of Foreign Affairs attempted to take the dispute away from the US Department of Justice so that it could be resolved diplomatically. The reason was that protection of foreign collaborators who had helped South Africa keep pace with advanced military technology during the arms embargo had been authorized at the highest levels of government, thus, the case had a political flavor. Furthermore, identification of such suppliers or middlemen would have left them vulnerable to prosecution and brand Armscor as a pariah in the multi-billion rand international weapons trade, in which secrecy was regarded as a fundamental rule. But Armscor's anxiety in solving the dispute also involved two other fears. First, it was feared that the dispute could influence the US to use its Security Council veto to block the expected lifting of the United Nations arms embargo later in 1994 at the request of a new South African Government. Secondly, Armscor was concerned that an ANC-dominated government might accede to the extraditions request by the US in order to appease US

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31. See Chapter 6, Section 6.5.2.2, p. 330.

commercial and military concerns about the strength and capabilities of the South African arms industry.<sup>32</sup>

In April 1994, in a secret turn-about, the South African Government sent the seven individuals off to the US for questioning, after a deal that assured them that they would not be arrested and prosecuted when they arrived in the US. There were many speculations that the deal followed the ANC's refusal to guarantee the seven individuals protection from extradition should it win the pending elections in late April 1994. The interrogation of the seven would take place in Philadelphia on 18 April 1994. Prosecutors were expecting the seven to provide evidence against 30 US individuals and companies, particularly those who had supplied Saddam Hussein of Iraq with military equipment. The seven were also expected to be questioned regarding the suppliers of optical equipment used in the infra-red seeker of the South African V3B air-to-air missile, which was said to be cloned from the US Sidewinder missile, as well as gyroscopes used in guidance systems and cryostat cooling devices for the V3B missile, which were also expected to be originating from the US. Lastly, an unnamed US company was believed to have supplied magnetrons and electronic valves used in radars for the South African H2 television and laser-guided glide bomb, which was said to be designed to deliver nuclear and conventional warheads. However, the seven men were only given limited exemption from strict South African laws controlling the disclosure of official secrets and arms industry information – they were only allowed to provide information relating to the deals between Armscor and ISC. They were forbidden to embark upon any discussion relating to South Africa's nuclear and missile projects or deals with other US companies.<sup>33</sup>

### 7.6.3 THE LIFTING OF THE UNITED NATIONS ARMS EMBARGO

While the seven men were being interrogated in the US, preparations for the first ever democratic elections in South Africa continued. On 27 April 1994, the decades-long reign of the National Party came to an end when the ANC won the elections, and Nelson Mandela became President of the Republic. Less than a month after the victory,

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32. P. de Ionno, Demand to quiz SA arms dealers, *Sunday Times*, 20 March 1994, p. 15; P. de Ionno, Secret deal on Armscor men, *The Sunday Times*, 17 April 1994, p. 1.

33. P. de Ionno, Secret deal on Armscor men, *The Sunday Times*, 17 April 1994, p. 1; M. Ley, Krygkor-7 moet in VSA getuig oor wapenkope, *Beeld*, 18 April 1994, p. 3; Anonymous, Sewe Krygkor-manne aan VSA uitgelewer, *Die Afrikaaner*, 29 April – 5 May 1994, p. 1.

Mandela sent Vice President Thabo Mbeki and Deputy Minister of Foreign Affairs, Aziz Pahad, to the United Nations to deliver a personal letter before the Security Council. In the letter, Mandela referred to the changed political situation in South Africa, which he felt made punitive measures unnecessary. He asserted that the country now needed further encouragement. Accordingly, he requested that all remaining sanctions against the country, including the arms embargo, be lifted and that all boycott legislation be revoked. The letter was an effort to prevent South Africa from going down the same route as Namibia: although sanctions against that country were lifted immediately after it gained independence, legislation remained in many of the American states' law books. That made trade with the country very difficult.<sup>34</sup>

On 25 May 1994, the Security Council was due to gather to discuss the lifting of the mandatory United Nations arms embargo against South Africa, as well as the issue of South Africa's cooperation with other countries in the area of nuclear development. The latter issue was on the agenda because of the Security Council's Resolution 591 of 1986, which stipulated that all member countries had to refrain from all cooperation in the area of nuclear power that could contribute to the manufacturing and development of nuclear weapons in South Africa. Mbeki and Pahad would join the meeting to read the letter from Mandela. It was expected that the arms embargo would be lifted on some conditions, e.g. that the South African Government would adhere fully to international standards concerning the export of technology and equipment that could threaten the world peace. This would include exports to countries like Libya, Iraq or Rwanda.<sup>35</sup>

On 25 May 1994, as expected, the United Nations Security Council lifted the mandatory arms embargo of 1977 on the export of weapons to South Africa, as well as the 1984 embargo on the import of South African-developed and manufactured arms. The lifting of the arms embargoes constituted the last of the United Nations punitive measures that had been instituted against South Africa during the apartheid era. The decision was made after Mbeki had read Mandela's letter to the Security Council and latter voted on the issue. In the debate over the lifting of the arms embargoes, Mbeki stated that the

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34. W. Pretorius & F. Swart, Wapenverbod teen SA kan gou waai; Thabo Mbeki na VN met brief van pres. Mandela, *Beeld*, 23 May 1994, p. 1.

35. F. Swart, Kernkrag: SA se rol ter sprake; Mbeki woon debat in Veiligheidsraad by, *Beeld*, 24 May 1994, p. 4; W. Pretorius & F. Swart, Wapenverbod teen SA kan gou waai; Thabo Mbeki na VN met brief van pres. Mandela, *Beeld*, 23 May 1994, p. 1.

new South African Government was eager to see the fast establishment of a treaty on an African zone without nuclear weapons. Also, according to Mbeki, the transfer to a democratic order in South Africa represented the basis from which the country would continue to search for a negotiated, fair and stable regional security system for all the nations of Southern Africa. Mbeki further said that the South African Government would regard the decision by the Security Council to lift the arms embargoes against South Africa, as acceptance by the United Nations as a world body that South Africa had become a democratic country – a country on which the world could count as one that had committed itself to the strive for international peace and security. In this regard, the South African Government was determined to ensure that South Africa would fulfill all its commitments resulting from its international agreements, i.e. the Nuclear Non-proliferation Treaty, the Chemical Weapons Convention and the Biological Weapons Convention. It also included agreements over the movement of equipment and technology that could be used in the development of missiles that were able to shoot down weapons of mass destruction. Lastly, Mbeki assured the Security Council that South Africa was busy converting its military technology to civilian use, and asked the assistance of the international community in that endeavor.<sup>36</sup>

#### **7.6.4 A SPANNER IN THE WORKS: THE CASE AGAINST ARMSCOR**

##### **7.6.4.1 US' retainment of its arms embargo against South Africa**

In late May 1994, it was reported that the seven indicted men that had been send to the US for interrogations, were back in South Africa. The prosecutors were expected to decide within a month whether to proceed with charges against the seven.<sup>37</sup> However, the case was not resolved so easily. It would continue for another three years before a final deal was struck. Thus, in the wake of the events at the United Nations, the US decided to maintain its own arms embargo against South Africa until further notice. In addition to the continuing case against Armscor, US experts warned that with the lifting of the United Nations embargo, cheap and efficient South African-made arms could flood the growing market of Third World countries. As example they quoted Armscor's

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36. F. Swart, Laaste boikot van VN teen SA is opgehef; Republiek kan wapens uitvoer, *Beeld*, 26 May 1994, p. 1; P. McNab, *et. al*, UN Security Council lifts arms embargo, *Military and Arms Transfer News* 94(1), 3 June 1994, p. unknown (Online document); Anonymous, Curbs on South Africa end, *The New York Times*, 26 May 1994, p. A10.

37. S. Motlhabakwe, Armscor men quizzed in US, *Business Day*, 26 May 1994, p. 2.

history of supplying weapons to blood-soaked regimes like Iraq and Libya, as well as a confession by the head of Armscor, Tielman de Waal, that South Africa had during the previous five years exported \$30 million worth of guns, grenades and mortars to Rwanda. The concern remained even after Armscor assured the world that the exports ceased in September 1993 when signs of a pending civil war became clear, and that South Africa was keeping to international standards that prohibited exports of weapons to country's that suppressed their own citizens and disregarded human rights. But further concern was raised in the US when De Waal announced that Armscor would double its arms exports in 1994 to \$500 million. What made matters worse, according to US experts, was Mandela's comments after the lifting of the United Nations arms embargo that there was nothing wrong with arms trade, because arms were meant in the first place to defend the sovereignty and integrity of a country. Therefore, he gave his blessing to Armscor's intention to double its exports. Many suspected that the new South African Government was tempted by the work opportunities and the foreign exchange that arms exports would create.<sup>38</sup>

Despite the concerns that were expressed, however, the US Department of Commerce announced in the Federal Gazette in mid-June 1994 that it was lifting curbs on the export of dual-use products, which could be used for either military or civilian purposes, to South Africa. But it was still clear that the complete lifting of the US arms embargo against South Africa by the Department of State would be substantially delayed because of the arms smuggling case against Armscor and its affiliates. This included the embargoes on the export to South Africa and the import from South Africa of arms and related equipment. It was expected that the embargoes would be lifted as far as the South African Government was concerned, but that Armscor and all its affiliated and offshoot companies would still be embargoed. In the wake of the announcement, the Clinton Administration and the South African Embassy embarked on negotiations to try and find a solution. This included plea-bargaining, i.e. negotiations on a lesser sentence for the seven former Armscor employees that had been indicted. It was also expected that the ban on Armscor and its affiliates could negate special exemptions that one of the off-shoot companies, Denel, had received from the Clinton Administration in exchange for South Africa agreeing to abandon its missile development under the

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38. J.S. Rita, US Congress in uproar over SA, *City Press*, 29 May 1994, p. 14; F. Swart, Amerikaners bekommerd oor SA se wapenbedryf, *Beeld*, 1 June 1994, p. 5; C. McGreal, ANC gives its blessing to increased arms exports, *The Guardian*, 4 June 1994, p. 16.

MTCR. However, when the possible lifting of the US arms embargo was discussed within the Clinton Administration, it was found that the Denel exemption had been granted in error. Although Denel was now independent from Armscor, it still originated from the latter and therefore was subject to the indictments. The South African Ambassador in the US, Harry Schwarz, nonetheless seemed positive about the negotiations, saying that if the Armscor embargo was extended, it could have adverse effects, but it did not mean that the lifting of the embargo against the South African Government held no benefits. South Africa would still gain a big part of the prize.<sup>39</sup>

As expected, the Department of State in late June 1994 lifted the remaining restrictions on the export of US arms and related equipment to South Africa, i.e. the 1977 arms embargo. Clinton certified the lifting on 27 June 1994, saying that the furnishing of defense articles and services to the South African Government would strengthen the security of the US and promote world peace. At the same time, however, the Department of State gave notice by way of a denial order published in the Federal Register on 30 June 1994 that a blanket embargo remained in place against Armscor, Denel, Kentron and Fuchs Electronics, as well as any of its subsidiaries, their employees and any successor company. This was due to the 1991 indictment of Armscor for violations of the US Arms Export Control Act. As a further sting, the arms embargo also remained in place against the South African National Defense Force (SANDF), the incorporating defense force that was established under the new South African Government, because Armscor was the only acquisition agency for the SANDF.<sup>40</sup>

#### **7.6.4.2 The indictment against Fuchs Electronics and the jeopardized Rooivalk helicopter sale to Britain**

In August 1994, US federal prosecutors followed up on the Armscor case by indicting Fuchs Electronics (Pty) Ltd., which was controlled by Barlow Rand at the time of the transgression, of illegally supplying Iraq with bomb technology in exchange for thousands of tons of crude oil in the 1980s. Because Fuchs Electronics had conspired

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39. Anonymous, Delay in lifting US arms curbs, *The Argus*, 17 June 1994, p. 3; P. Fabricius, Armscor – spanner in the works, *The Star*, 20 June 1996, p. 7.

40. Armscor Compliance Office, *Essentials of the Armscor Compliance Programme*, p. 3; Federation of American Scientists (Washington, D.C.), South African embargo lifted, *Arms Sales Monitor* 26, July 1994, p. unknown (Online document); D. Lautenbach, US order keeps SA's arms at bay, *The Star*, 18 August 1994, p. 11; B. Keller, Apartheid's arms-maker finds respectability, *The New York Times*, 26 August 1994, p. A3; S.C. LeSueur & G. de Briganti, S. Africa's export quest is stunted by U.S. trade ban, *Defense News*, 12-18 September 1994, p. 1.



with ISC to supply 300,000 FF-1 fuses used to ignite artillery rounds and cluster bombs, which would be delivered to IMEC, a firm with Iraqi links, the 1977 US arms embargo against South Africa was violated. The exports allegedly took place between 1985 and 1989, during which time ISC exported in excess of \$4,4 million worth of fuse power supplies to Fuchs Electronics to enable it to maintain its production line of fuses and to assist Fuchs Electronics to fulfill its fuse production requirements with Iraq. According to the prosecutors, the bombs thus supplied were used by Iraq during the Gulf War, while South Africa used the crude oil to bust the United Nations oil embargo against South Africa. They alleged that although it had long been known that Armscor and Barlow affiliates had collaborated with ISC to supply the Iraqi Government with hi-tech war material, the indictment against Fuchs Electronics was the first evidence that the trade involved a bombs-for-oil swop in an effort to circumvent the international oil embargo against South Africa.<sup>41</sup>

The indictment against Fuchs Electronics was followed by reports that Armscor was still trying to set up an out-of-court deal with the US federal prosecutors, which involved large sums of money in fines so that the seven officials would not have to stand trial in the US. In answer to enquiries, Armscor prepared a statement in which it stated that the company was aware of the proposed institution of a denial order by the US Government on the importation and exportation of arms, munitions and implements of war by and from Armscor. The company confirmed that Armscor was involved in a court case with the US authorities, and that discussions with the US federal prosecutors to achieve an out-of-court settlement were being conducted. However, Armscor was not prepared to provide any further information because of the negotiations being in a very delicate phase, and further information could jeopardize the proceedings of the negotiations. Further information was nonetheless offered by the Department of Foreign Affairs, who said that although there was as yet no fixed figure, indications pointed to a R54 million fine for Armscor and about the same for Fuchs Electronics. The Department was very concerned about this huge amount of money and an alleged perception that it

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41. P. Stober & E. Koch, US batters Armscor in bombs-for-oil court case, *The Weekly Mail & Guardian*, 12 – 18 August 1994, p. 3.

would have to be paid out of the Government's coffers, especially in respect of Armscor, which was a fully owned parastatal.<sup>42</sup>

The indictments against Armscor and Fuchs Electronics, as well as the blanket denial order against Armscor and the other mentioned entities, as discussed, raised new questions on whether the US was not protecting its own industry by acting so rigorously. Many South Africans wondered if the US refusal to accept a proposed settlement by Armscor was in fact not an effort to force the company out of the lucrative international arms market, thereby getting rid of a competitor and a potential source of arms proliferation in the Third World. Ironically, as discussed, the US had much to say about South African arms that could flood the Third World market after the lifting of the United Nations arms embargo, but in a Congressional Research Service report to the US Congress in July 1994, research data indicated that US arms agreements in 1993 accounted for nearly 75% of all Third World weapons deals! This constituted an increase from \$14.6 billion in 1992 to \$14.8 billion in 1993.<sup>43</sup>

South African Foreign Affairs officials were unwilling to speculate too much whether the US might use the Armscor situation as a guise for protectionism, but was nonetheless concerned about the longer-term effect the whole Armscor issue could have on the future of the South African arms industry. Even if the Armscor case was settled soon, a probation period of two years would still remain before it and the other affected companies could emerge from the shadow of the denial order. This could have an effect especially on the marketing and sales of the Denel-developed Rooivalk combat helicopter, which was regarded as one of the best in the world. However, potential buyers would possibly wanted to see certain high-tech equipment from the US installed in the helicopter. If these specialized items were not available to Denel because of the denial order, such potential buyers might snub the deal. Furthermore, Foreign Affairs officials were also afraid that because of the US limiting the access to markets of companies like Kentron and Fuchs Electronics, which also manufactured products not

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42. Armscor Archives (Pretoria), **Press release** by L.P. Celliers in answer to media enquiries regarding the ISC issue, 16 August 1994; D. Lautenbach, US order keeps SA's arms at bay, **The Star**, 18 August 1994, p. 11; P. Stober & E. Koch, SA arms-dealers offer R108-m to avoid US trial, **The Weekly Mail & Guardian**, 19-25 August 1994, p. 7; B. Keller, Apartheid's arms-maker finds respectability, **The New York Times**, 26 August 1994, p. A3; S.C. LeSueur & G. de Briganti, S. Africa's export quest is stunted by U.S. trade ban, **Defense News**, 12-18 September 1994, p. 1.

43. B. Opall, U.S. tightens grip on Third World arms market, **Defense News**, 8-14 August 1994, p. 3; D. Lautenbach, US order keeps SA's arms at bay, **The Star**, 18 August 1994, p. 11.

related to the arms industry, the broader reach of South African trade would be negatively affected.<sup>44</sup>

In August 1994, the above fears became a reality. Denel needed US weapons systems because of a bidding for a R17 billion contract involving the sale of 91 Rooivalk helicopters to Britain. South Africa was one of four countries bidding for the contract. Apparently, because Britain was a NATO<sup>45</sup> member, the US weapons systems were required to make the Rooivalk comply with NATO specifications. Furthermore, Britain's decision on who would supply it with the attack helicopters was being closely watched by Spain and the Netherlands, which also had requirements for similar helicopters. Between the three nations, as many as 150 helicopters could be exported. However, Armscor sources expressed suspicions that the Clinton Administration might deny the waiver in order to give its own aircraft manufacturers an advantage. One of the US manufacturers, McDonnell Douglas, was known as bidding for the contract with its Apache attack helicopter. In late August 1994, two US aircraft weapons and avionics manufacturing firms requested the Clinton Administration to waive the denial order on Denel to enable it to fit their products to the Rooivalk. The two firms requested the waiver in the light of US law making provision for waivers of a denial order in certain cases, i.e. if a company could demonstrate that a particular transaction would be in the interest of US foreign policy or national security, the Department of State could issue an exception.<sup>46</sup>

In a move that could possibly be regarded as a stoking of the above suspicions, the Clinton Administration formally informed the South African Government that it was not willing to accept a political settlement over the Armscor court issue, followed by a request for the seven individuals to testify in the US. Apparently, the seven individuals had agreed to assist the federal prosecutors in Philadelphia on all ISC-related issues in exchange for all the indictments against them being reversed. However, when the

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44. P. Stober & E. Koch, US batters Armscor in bombs-for-oil court case, *The Weekly Mail & Guardian*, 12 – 18 August 1994, p. 3; E. Koch, SA arms-dealers offer R108-m to avoid US trial, *The Weekly Mail & Guardian*, 19-25 August 1994, p. 7; D. Lautenbach, US order keeps SA's arms at bay, *The Star*, 18 August 1994, p. 11; B. Keller, Apartheid's arms-maker finds respectability, *The New York Times*, 26 August 1994, p. A3.

45. North Atlantic Treaty Organization.

46. P. Fabricius, American arms companies to test US denial order, *The Star*, 29 August 1994, p. 12; S. Bothma, US could scuttle Armscor's deal, *Business Day*, 20 August 1994, p. 1; S.C. LeSueur & G. de Briganti, S. Africa's export quest is stunted by U.S. trade ban, *Defense News*, 12-18 September 1994, p. 1; P. Fabricius, US ban on Armscor threatens the sale of Rooivalk to Britain, *Weekend Argus*, 28 August 1994, p. 3.

prosecutors demanded all information the men had about the involvement of any other US companies, the seven refused and the deal fell through. On 19 September 1994, when the trial against ISC official Robert Ivy was due to start, it was postponed to February 1995. This was further bad news for Armscor, as this postponement would also mean a postponement of the case against it as well as the continuation of the denial order while the company was still under indictment. It was expected that in the case of Armscor and the other companies being convicted, the US Government would probably debar them from trade with US companies for three years, although it was hoped that this would be reduced to one year. However, even if the debarment lasted for only one year, the companies would have to reapply for trading privileges in the US, and that also constituted a yearlong process. Nonetheless, it was still hoped that according to US law that allowed exceptions to a denial order on a case-by-case basis, Armscor and the other companies would not have to wait long to do business in the US.<sup>47</sup>

In October 1994, President Mandela decided to intervene. During a state visit to the US, he discussed the thorny Rooivalk issue with Clinton. In fact, he complained that the embargo on Armscor was effectively frustrating the South African bid for the sale of the helicopters to Britain. He pointed out to Clinton that the Rooivalk was manufactured by Denel, who became independent from Armscor in 1992, and therefore should not be considered as being subject to the embargo against Armscor. According to Mandela, Clinton showed a great deal of sensitivity to the issue and undertook to do what he could to waive the denial order against Denel. In turn, Mandela agreed that the ISC case would perhaps first have to be solved. He promised to send Armscor representatives back to the US immediately after he got back in South Africa.<sup>48</sup>

Clinton's promise to do what he could to waive the denial order against Denel was given despite a huge embarrassment for South Africa due to an arms sales scandal involving

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47. F. Swart, Amerika nie bereid tot politieke skikking oor Krygkor-skandaal, *Die Volksblad*, 31 Augustus 1994, p. 2; F. Swart, Amerika wil nie skik oor Krygkor-smokkelskandaal, *Beeld*, 31 August 1994, p. 18; F. Swart, VSA sê hy sal nie skik in Krygkor kwessie, *Die Burger*, 1 September 1994, p. 13; D. Pallister & D. Beresford, Britain keen to bring S African arms trade in from the cold, *The Guardian*, 23 September 1994, p. 15; S.C. LeSueur & G. de Briganti, S. Africa's export quest is stunted by U.S. trade ban, *Defense News*, 12-18 September 1994, p. 1.

48. C. Whitfield & P. Fabricius, Mandela back home and loaded with loot, *Natal on Saturday*, 8 October 1994, p. 6; Anonymous, White House to help ease Rooivalk deal, *The Daily News*, 6 October 1994; Anonymous, US money will soon stream in – Mandela, *City Press*, 9 October 1994, p. 2; Anonymous, Mandela vra Bill Clinton om te kyk na Rooivalk, *Beeld*, 12 October 1994, p. 11; P. Fabricius, Taking up arms for Gore/Mbeki commission, *The Star*, 13 January 1995, p. 12.

Armcor, Lebanon and Yemen. While Mandela was in the US, an aging Danish freighter anchored off the South African coast at Port Elizabeth. On board were enough guns to equip a small army – 25,000 AK-47 and G-3 assault rifles and 14 million rounds of ammunition. The weapons were bought from Armcor by a Lebanese middleman named Eli Wazen, who provided an end-user certificate stating that the weapons were intended for the Lebanese Government. The ship sailed for Lebanon on 25 August 1994. Instead, it went to Hodeida, a Yemenese port at the Red Sea. War-torn Yemen was under an arms embargo at the time, therefore the export of arms to it was illegal. When the weapons were not unloaded in Yemen, it was suspected that it was intended for UNITA in Angola, who was also under an arms embargo. Armcor denied this, saying instead that it had been conned. The ship then sailed back to South Africa due to the outcry, without the real recipient known. Nonetheless, it did not do the case against Armcor any good – in fact, the US federal prosecutors were now even more determined to bring the company to book.<sup>49</sup>

#### 7.6.4.3 South Africa signs Missile Non-proliferation Agreement

Parallel with Mandela's visit and the embarrassing weapons deal discussed above, a more positive occurrence helped to indicate to skeptics in the US that Armcor was in fact trying to turn around its law-violating image. The occurrence was the signing on 3 October 1994 of a bilateral Missile Non-proliferation Agreement (MNPA) by representatives of the US and South Africa. The MNPA entailed a bilateral missile-related export/import agreement as well as an accompanying joint statement on steps South Africa would take to terminate its Category I missile program. The agreement committed South Africa to abide by the export guidelines of the MTCR, and included provisions for the country to temporarily import space-launch vehicles for satellite activities, when it was agreed that such activities would not contribute to missile proliferation. Furthermore, the associated joint statement detailed South Africa's steps for terminating its space-launch vehicle program. The signature of the two documents was regarded as an important step in the shared commitment of South Africa and the US to halt the spread of weapons of mass destruction and the means to deliver them.<sup>50</sup>

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49. B. Drogin, S. Africa firm under the gun to explain wayward weapons, *Los Angeles Times*, 8 October 1994, p. A2.

50. M. McCurry, U.S. and South Africa sign Missile Non-Proliferation Agreement: Statement by Department Spokesman in Washington, D.C. on 4 October 1994, *Department of State Dispatch* 5(42), 17 October 1995, p. 694.

#### 7.6.4.4 Continued Armscor bids to sort out the dispute

In mid-October 1994, Armscor lawyers arrived in the US in a renewed effort to solve the smuggling case against it. It was understood that the South African Government had pressurized the company to seek a quick settlement out of court. The South African Government believed that Clinton would be more inclined by a quick settlement to use his presidential authority to waive the denial order against Armscor and its affiliate and offshoot companies, which was hampering the Rooivalk sales contract to Britain. The team of lawyers was to be engaged in three sets of negotiations. The first set would be with the US Department of Justice and prosecutors in Philadelphia, and concerned criminal penalties and what further information Armscor would have to supply to settle the charges. It also concerned the fate of the seven individuals and the Armscor affiliates that were indicted individually. The second set of negotiations would be with the Department of State, who was enforcing the embargo on sales to and procurement from Armscor and Denel, as required by the Arms Export Control Act while Armscor remained under indictment. At issue during this negotiation would be the scope and duration of administrative penalties the Department was obliged to impose even after the charges had been dealt with, which included a \$500,000 fine for each count on which the defendant was guilty, plus the continued denial of export licenses for three years. These issues would be dealt with in a consent agreement between the Department of State and Armscor. It was deemed possible that the Clinton Administration would agree to absolve Denel or certain subsidiaries on the grounds that they were not involved in the original offences. This would enable these entities to procure from US firms for the purposes of the Rooivalk bid to Britain. The third set of negotiations would entail talks with the Department of Commerce, which administered a further tier of arms export regulations to coordinate its actions with those of the Department of State.<sup>51</sup>

If the case were settled once and for all by this newest bid, the ball would be squarely in Clinton's court to decide whether or not to waive the denial order. In fact, many in South Africa would watch his reaction closely as a test of future US-South African

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51. P. Fabricius, Bid to end arms row, *The Daily News*, 19 October 1994, p. 1; P. Fabricius, Armscor bid to sort out smuggling allegations, *The Argus*, 19 October 1994, p. 3; S. Barber, SA team in bid to resolve US dispute, *Business Day*, 19 October 1994, p. 1; P. Fabricius, It needs total Armscor glasnost, *The Argus*, 20 October 1994, p. 20.

relations. But Clinton was actually in a difficult spot. On the one hand, he seemed to have genuine respect and affection for Mandela, and would have liked to assist him. On the other hand, he faced the ubiquitous domestic constraints that dogged all US foreign policy decisions. Therefore, he might have deemed it politically imprudent to appear to be harming the chances of a US firm winning the helicopter bid if he waived the Armscor denial order. Also, in the light of US officials insisting that the weapons proliferation issue was more important than the commercial one, such a waiver might be regarded as interference with US judicial process, which was aimed at condoning Armscor's supply of US technology to hostile countries like Iraq. Armscor's supplies to Iraq was especially sensitive in the light of the latter's confrontation with the US during the Gulf War. Nonetheless, South African officials argued, the US had often during the preceding few years praised South Africa for forgiving the past. Surely the US should do the same. They asked why the sins of the old government should be visited on the new. US officials replied by asking whether Armscor's sins were really past, and expressed concerns about continued weapons proliferation by the company. They also pointed out that the US had granted several waivers of denial orders in the recent past, but only to friendly countries that they trusted not to sell weapons indiscriminately. In the light of the recent fiasco of Armscor arms sales to Lebanon, they doubted if they could trust Armscor.<sup>52</sup> Therefore, one can deduct that more was at stake than the removal of the denial order against Armscor and Denel as a result of the unanswered indictments – the issue was really whether South Africa could be trusted as responsible arms exporter, or still represented a proliferation risk.

By November 1994, Armscor seemed to toughen rather than soften its stance. The reason: a new lawyer, Brendan Sullivan, now represented the indicted South African companies and the seven individuals. In a letter dated 21 November 1994, Sullivan made yet another new offer to the US prosecutors led by Nicholas Harbist and Robert Goldman. Sullivan's offer was to plead guilty with Kentron, but not with Fuchs Electronics, on five civil as opposed to criminal counts; to allow the seven individuals to testify, but without furnishing documents; and to pay a \$5,5 million fine instead of the demanded \$22,5 million. A further condition was that Denel, now privatized and no longer under Armscor's auspices, and Barlow Rand, which owned Fuchs Electronics, would not be affected by the three-year denial order for access to US arms technology.

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52. P. Fabricius, It needs total Armscor glasnost, *The Argus*, 20 October 1994, p. 20.



Furthermore, Sullivan demanded indemnity against future prosecution for agreeing to testify against the US accused; refused to accept the standard compliance program what would allow US officials to monitor that Armscor did not break US export laws in the future; and offered only a six months denial order for doing business with the US, for Armscor. The US prosecutors refused the offer, and accused Sullivan of retreating from the earlier, softer offers of his predecessor. They also complained that the seven individuals were threatened with 'sanctions' by their employers if they cooperated.<sup>53</sup>

#### 7.6.4.5 Tightening the bonds around Armscor: The Cameron Commission and other incidents

Back in South Africa, Armscor also faced scrutiny. It seems as if the bonds around it were tied from everywhere now; the company was brought to book. The scrutiny in South Africa was undertaken by the Cameron Commission, which was tasked with an investigation into South African arms deals since February 1990, i.e. since Nelson Mandela was released. It was the first judicial commission of enquiry in accordance with the new South African Constitution. The activities of the Commission would for the first time focus on accountability, transparency and respect for the international law as stipulated in the Constitution. It was chaired by Acting Judge Edwin Cameron. The commission gathered for the first time on 7 November 1994, and from the onset ruled that it would sit in public, despite strong protests by Armscor, the SANDF and the Department of Foreign Affairs that it should meet behind closed doors. Cameron took a strong stance from the onset, saying the Commission did not regard it its duty to protect arms transactions that assisted the cause of apartheid, nor to protect foreign parties that had violated the mandatory United Nations arms embargo against South Africa. Furthermore, it was not the Commission's responsibility to protect foreign parties that had used or were still using South African weapons for attack or suppressive purposes.<sup>54</sup>

Shortly after the Cameron Commission embarked on its investigation, new media reports claimed that dangerous chemicals, military components, electronics and materials for the ballistic missile program had been smuggled to South Africa by

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53. S. Barber, Arms case sours relations with US, *Sunday Times*, 25 December 1994, p. 4; P. Fabricius, A familiar fly in the ointment, *The Argus*, 12 January 1995, p. 18; P. Fabricius, Taking up arms for Gore/Mbeki commission, *The Star*, 13 January 1995, p. 12.

54. J. de Lange, Oortreders van die verbod nie beskerm, *Beeld*, 8 November 1994, p. 2.

individuals on board passenger flights, in violation of the United Nations arms embargo and air safety regulations. Answering the rumors, Armscor conceded that it was possible that Armscor individuals had exceeded their briefs and smuggled chemicals to South Africa in this manner. However, Armscor emphasized, the company could not take responsibility for such unauthorized actions. It also said that the information on the issue was very limited and Armscor was hoping to obtain further details, including the identities of the persons involved and the type of chemicals transported. Armscor's statement was concluded by saying that it was Armscor's official policy to adhere to international regulations.<sup>55</sup> This opinion was not shared by many, as can be clearly deduced from the judicial cases involving the company both in the US and South Africa.

On 22 November 1994, the ghost of the ISC case yet again haunted Armscor in a presentation before the Cameron Commission by Terry Crawford Brown, an envoy of Archbishop Desmond Tutu. According to Brown, the US forces in Iraq was bombarded with some of its own best weapons technology in the Gulf War, as a result of ISC selling the technology, in cooperation with Armscor, to Iraq and China. Brown further alleged that South Africa had also sold weapons, of which many could have contained US technology, to Rwanda, Liberia, Somalia, Sudan and Iran, all countries that were known for gross suppression and violations of human rights. Brown's presentation was heard as part of an application by the Department of Foreign Affairs and the SANDF that a highly secret document, Log 17, which regulated South Africa's international arms trade, be heard in closed sessions. Foreign Affairs and the SANDF tried to convince the Commission that the public revelation of Log 17 would severely harm South Africa's relations with some countries. But other entities, like the Institute for Freedom of Speech, asserted that the hearing of Log 17 behind closed doors would deny the public of the right to know what Armscor did in the past. The Cameron Commission later in a milestone decision refused the application not to make the documents pertaining to Log 17 public. It ruled that the public's right to know superceded any embarrassment the publication might cause.<sup>56</sup>

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55. C. Steyn, Armscor: Individuals may have smuggled, *The Citizen*, 21 November 1994, p. 5.

56. J. de Lange, Tutu-gesant kap Krygkor oor wapens - VSA wapentuig glo aan vyande verkoop, *Beeld*, 23 November 1994, p. 2; G. Davis, Armscor: The Alice in Wonderland memo, *Weekly Mail & Guardian*, 2 December 1994, p. 1.

Armcor was now in deep water – both in the US and South Africa. In South Africa, it was charged with vetting marketing and export applications for arms from the South African arms industry, and export applications for the sale of the old SADF's stock, in terms of the Armaments Development and Production Act. The Act's statutory responsibilities included safeguarding national security and ensuring that South Africa did not compromise international non-proliferation treaties and contributed to world peace. To make matters worse, in late December 1995 more details emerged about the smuggling aboard passenger aircraft. According to a former senior member of Armcor's procurement team, who spoke to the *Weekend Star*, Armcor officials had scurried around the world using aliases, front companies and lies to evade detection. They scoured back-door procurement processes to buy bits and pieces for the weapons production line and transported it to South Africa by air. For example, briefcases with a variety of compartments were used to carry small, dangerous goods as hand luggage when it was needed urgently and there was no time to arrange cargo clearance from South African Airways (SAA). The items would be wrapped with aluminum foil to make it undetectable by airport security cameras, or by dismantling them, or by putting other pieces of metal in with them as decoys. Once in South Africa, reverse engineering was used to copy the items. When top-secret goods such as weapons prototypes were imported as cargo via SAA, Armcor would send its own clearing agents to Jan Smuts Airport in Johannesburg. They would pick up the goods without going through customs clearance, otherwise there could have been a security leak. An example was the buying of pyrotechnics in Britain with a false end-user certificate supplied by the Egyptian Air Force. Payment was also made from Egypt. The pyrotechnics were transported via air to Egypt, and from there by air to Zambia, where it was again paid for. From Zambia, the pyrotechnics finally made their way to South Africa, also by air. Many high-tech US components for use in Armcor's missile program were also obtained this way, in violation of the arms embargo.<sup>57</sup>

In early January 1995 testimonies before the Cameron Commission, it was revealed that Armcor had sold about 40,000 Lee Enfield rifles to a US buyer in June 1992. This was a direct violation of the CAAA of 1986, which prohibited the import of any weapons-related items from South Africa. It was also in violation of the United Nations arms

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57. G. Davis, Armcor: The Alice in Wonderland memo, *Weekly Mail & Guardian*, 2 December 1994, p. 1; Anonymous, 'Parts for Armcor in hand luggage', *Weekend Star*, 31 December 1994, p. 5.

embargo against South Africa. The rifles were sold to Danish-US citizen Michael Steenberg, who planned to sell them as collector's items in the US.<sup>58</sup>

#### 7.6.4.6 The souring of US-South African relations

By January 1995, a dark shadow hung over US-South African relations as a result of all the revelations regarding Armscor and the inability of the South African Government under Mandela to resolve the arms smuggling case against the company. The dispute also threatened Mandela's credibility, as he had promised Clinton during his visit to the US a few months before that he would see the matter settled. However, instead of getting Armscor to cooperate, the latter took on an even more hardened position, which angered Clinton Administration officials and federal prosecutors. Furthermore, South African Deputy President Thabo Mbeki and Defense Minister Joe Modise, who in the meantime had emerged as the two key political actors in the affair, were letting Armscor have its own way despite a strongly worded *demarche* delivered by the US Embassy. This led to concern in the US that hardliners from both the old and new orders in South Africa had found common ground and were happy to see a wedge between the two countries. The old order seemed to be still bitter over the US arms embargo and economic sanctions, while the new order was still ideologically hostile to the US.<sup>59</sup>

As a result of the new tension, US Secretary of State for Politico-Military Affairs, Lynn Davis, put off sending a delegation to South Africa to formalize a variety of arms proliferation agreements. She saw little point in signing proliferation pacts with South Africa while its government appeared to be protecting its parastatal weapons manufacturing firm, Armscor, who had slapped the US in the face by supplying munitions with US technology to Iraq. Furthermore, the negotiations between Armscor and the federal prosecutors grinded to a halt. The latter warned Armscor that the time for striking a deal was fast running out, in the light of Ivy's trial being only six weeks away. If Armscor wanted to provide evidence in the proceedings, it had to cooperate immediately. If it failed to cooperate, the settlement price would rise, whether or not Ivy was found guilty. Lastly, the prosecutors noted that if the South African Government

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58. Anonymous, Armscor 'sold rifles to buyer in US', *The Citizen*, 18 January 1995, p. 5.

59. S. Barber, Arms case sours relations with US, *Sunday Times*, 25 December 1994, p. 4.

were to conduct a thorough housecleaning of Armscor, it could be regarded as a precedent to leniency.<sup>60</sup>

Confusion and resentment seemed also to reign within the South African Government. A senior official in the government said that the South African Government had expected the US prosecutors to be more conciliatory after Mandela and Clinton's intervention. Therefore, the government was shocked to find these prosecutors as tough as ever. Some in the South African Government accused the US of deliberately taking a hard line to shut South Africa out of the lucrative arms industry – a view that had been expressed often while the case continued. These government members said that they could not understand how the US could provide the new South African Government with foreign aid, and then take back some of it in the form of heavy fines against Armscor for something the pre-1994 government did. Still others in Government urged Armscor to settle on the US' terms, whatever the merits of the case, because of the hard reality that it would be impossible for Armscor to participate in the international arms market without US cooperation. Lastly, many within and out of Government felt that the case was surely also a political case, as the offences were committed by a government trying to circumvent the arms embargo. Therefore, there was a serious need for dialogue at a high level.<sup>61</sup>

In an effort to somewhat ease the tension in political-military relations between South Africa and the US, the Clinton Administration announced in late January 1995 that a high-ranking US official, Frances Cook, would visit South Africa in February 1995. Cook was Deputy Assistant Secretary of State for Regional Security Affairs. The visit was aimed at laying the foundations for cordial political-military relations with the new South African Government. Cook would meet with South African officials to discuss military-related issues like regional stability and peacekeeping, non-proliferation of arms, and arms export policy.<sup>62</sup> Since this type of visit had been prohibited under the arms embargo for many years, Cook's intended visit could be viewed as a significant step in the direction of normalizing relations between the US and South Africa.

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60. S. Barber, Arms case sours relations with US, *Sunday Times*, 25 December 1994, p. 4; P. Fabricius, A familiar fly in the ointment, *The Argus*, 12 January 1995, p. 18.

61. P. Fabricius, A familiar fly in the ointment, *The Argus*, 12 January 1995, p. 18; P. Fabricius, Taking up arms for Gore/Mbeki commission, *The Star*, 13 January 1995, p. 12.

62. P. Fabricius, SA and US review military relations, *The Star*, 25 January 1995, p. 13.

The significance of Cook's proposed visit however quickly faded. The visit never occurred. In the meantime, on 27 January 1995, the British Army non-officially informed Armscor that the tender for the supply of Rooivalk attack helicopters had failed. That brought an end to an effort to secure a highly profitable contract of more than R10 milliard and the creation of thousands of jobs. According to the British Army, the Rooivalk did not meet its requirements on technical grounds. One of the problems was that Armscor and Denel were not able to equip the Rooivalk with US weapons systems, due to the denial embargo against them. Also, the Rooivalk did not meet the necessary technical requirements, which could be ascribed partially to aged technical information about the helicopter that were submitted to the British authorities. The unsuccessful attempt was expected to lead to serious repercussions in the South African arms and related industries, as well as new stirrings in the South African Government on how to further handle the Armscor smuggling case in the US.<sup>63</sup>

#### **7.6.4.7 Mbeki intervenes, but still no deal**

Shortly after the news of losing the Rooivalk contracts, media reports in South Africa indicated that South African manufacturers of military vehicles and armaments could earn millions of Rands from US contracts, if the Armscor dispute obstacle between the two countries could be resolved. In mid-February 1995, South African newspaper *Beeld's* reporter in the US, Arrie Rossouw, reported that persons within the US defense circles looked with new eyes at the various aspects of South Africa's military potential. As the extent and sophistication of the South African arms industry was increasingly revealed, military experts of the US and other countries became more interested and wanted to know more. In fact, formal conversations were already underway between Denel and the US Department of Defense over a whole range of South African mine-resistant vehicles and the country's extremely advanced mine detection and destroying technology. Officials in the US Department of Defense acceded that the US ground forces were not properly equipped for the international peace operations in which the country increasingly became involved. Peace operations in Somalia, Rwanda and Haiti demonstrated that US soldiers were exposed to landmines, anti-personnel mines, small gunfire and sniper fire and had no personnel carriers to protect them against such situations. When the South African technology in this regard was studied, the US

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63. A. Rossouw & I. Capraro, Krygkor verloor R10 miljard-tender met die Rooivalk, *Beeld*, 27 January 1995, p. 1.

acceded that South Africa was leading the rest of the world with at least four development generations. South African developments like the Casspir, Mamba, Buffel and Samil personnel carriers were therefore being seriously considered by the US Department of Defense. Furthermore, South African manufacturers of mine detection and destroying equipment, in particular Mechem Consultants, a division of Denel, were found to be the world leaders in this area.<sup>64</sup>

The interest in South African arms and related equipment was reportedly the result of a demonstration of South Africa's ability to detect and destroy landmines and to protect its soldiers against landmine explosions and gunfire. The demonstration was done by a South African de-mining consultant, Johan van Zyl, at a conference of the US National Research Council on humanitarian landmine detection and destroying. Van Zyl's demonstration left engineers of the US, Britain, Canada, Norway and Sweden speechless, also on the amount of research that the South African scientists and engineers had undertaken over the years.<sup>65</sup> But even though the South African participation in the conference was regarded as yet another breakthrough regarding previously unallowed activities under the arms embargo, it was dampened by the fact that both Armscor and Denel were still embargoed by the US as a result of the unresolved smuggling case. Thus, even if the US Department of Defense found that it needed the South African systems to better equip its soldiers, the existing embargo would have made it impossible as long as the smuggling case remained unresolved.

In late February 1995, South African Vice-President Thabo Mbeki left on a six-day long official visit to the US to discuss various matters of importance for South Africa on the short and long term. Among these matters was the still unresolved Armscor case, which Mbeki discussed with the US National Security Advisor, Anthony Lake, on 1 March 1995. Although the governments of both countries felt that the matter had to be left in the hands of the court, the South African Government was also of the opinion that the matter had a political dimension that should not be ignored. The Clinton Administration in turn felt that the matter was clearly a pure judicial one, and therefore it could not allow a situation where the US Government was accused of hastening the matter or resolving it beforehand on a political level. In the light of these disagreements, Mbeki

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64. A. Rossouw, Amerika is 'honger' vir Suid-Afrika se wapenkundigheid, *Beeld*, 14 February 1995, p. 11.

65. A. Rossouw, Amerika is 'honger' vir Suid-Afrika se wapenkundigheid, *Beeld*, 14 February 1995, p. 11.



explained the South African Government's opinion to Lake. According to Mbeki, in accordance with South African law, the seven individuals who had to testify in the case also faced local prosecution if they revealed official secrets of the South African arms production and trade. This meant that indemnity had to be granted to them for a situation that clearly involved the South African Government, which then made the matter also a political one. Furthermore, according to US law, if the seven individuals and Armscor, Kentron and Fuchs Electronics were found guilty, an auditing and monitoring process would kick in to ensure that the involved parties ascribed to certain US requirements, before the trade embargo could be lifted. The law further prescribed that a US government official do the auditing. According to Mbeki, this requirement would mean interference in South Africa's sovereignty – therefore a matter that should be discussed on government level. Thus, the whole matter was not exclusively a judicial one, but also a political one. In Mbeki's view, the prosecutors and advocates for the defense could negotiate over the judicial aspects of the matter, but it clearly also had repercussions for the two governments, which had to be resolved on government level.<sup>66</sup>

On the same day as the meeting between Lake and Mbeki, the US also had some praise to offer, despite the tension caused by the Armscor dispute. At a news conference, Al Gore, the US Vice President, stated that the Clinton Administration appreciated the seriousness with which the South African Government approached the issue of the embargo and control of chemical and biological weapons, as well its dedication to adhere to the international agreement in this regard. Gore made the statement after a question by Mbeki concerning reports that the US was concerned about the expertise of South Africa in the development of chemical and biological weapons, and that this expertise could fall into the hands of a government like that of Libya. Mbeki reiterated that the two governments had been in talks for quite a while already on the embargo and control of chemical and biological weapons. He also reiterated that South Africa was a signatory of the international agreement concerning the embargo on the development and distribution of such weapons, and that it did not intend to violate the agreement in any way.<sup>67</sup>

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66. A. Rossouw, Mbeki besoek Amerika: baie op spel vir SA, *Beeld*, 25 February 1995, p. 4; A. Rossouw, Mbeki gryp in by VSA wapensaak oor 'politieke kleur', *Die Burger*, 1 March 1995, p. 15; A. Rossouw, Krygkor-twis: dit is politiek, sê SA, *Beeld*, 1 March 1995, p. 11.

67. A. Rossouw, Amerika loof wapenverbod in SA, *Beeld*, 2 March 1995, p. 4.

Mbeki and Lake both agreed that the Armscor case had to be solved as soon as possible in order for relations between the two countries to normalize. After a day of highly delicate initiatives, according to Mbeki, the case was left for the time being in the hands of the federal prosecutors and Armscor's attorneys. It was agreed that the court case would continue. Only after there was clarity on which South Africans had to testify and what the fines for a guilty plea would be, would there be further discussions on possible political implications, including the indemnity from prosecution of the witnesses and the payment of fines, which Armscor could possibly claim it was not able to pay. In such a case, it might become a matter of negotiation between the two governments. The agreement meant that the plea negotiations that had reached a dead end in December 1994, would be taken up again. Phil Hare, the South African Embassy's attorney, now also became part of the negotiations in an effort to reach an agreement on the handling of the court case. He had previously represented Armscor and the others in the case, but was later replaced by Sullivan. Although Mbeki did not directly say it, the agreement with Lake implied that the South African Government would now have to compel Armscor to accept the normal course of the court case.<sup>68</sup>

On 24 March 1995, media reports claimed that a deal to resolve the Armscor case was at hand. The South African attorneys prepared a comprehensive offer that encompassed an admittance of guilt, the fines for the criminal offences, amnesty for the seven individuals, steps against other individuals and companies that might sprout from the court case, the appointment of an independent auditor to monitor Armscor's export activities for a set period, administrative fines, and a so-called adherence program. It was expected that Armscor, Kentron and Fuchs Electronics would offer a guilty plea on several counts and that Armscor would pay a fine of just more than \$7 million.<sup>69</sup> Yet, a deal still evaded the negotiators. In June 1995, media reports asserted that the plea-bargaining deal now stipulated that Armscor was prepared to pay more than \$12 million to the US. According to the South African Department of Foreign Affairs, the fine consisted of \$10 million in admission of guilt penalties and \$2,5 million for administrative penalties for breaking US export regulations. But, in exchange, the

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68. A. Rossouw, SA, VSA wil Krygkor saak gou afhandel, *Die Burger*, 3 March 1995, p. 7; A. Rossouw, Krygkorhofsak in VSA gaan voort, *Beeld*, 4 March 1995, p. 6; A. Rossouw, SA, VSA wil geding oor wapens agter die rug kry, *Die Burger*, 4 March 1995, p. 7; A. Rossouw, Mbeki help geskil oor wapensaak opklaar, *Die Burger*, 4 March 1995, p. 7.

69. A. Rossouw, Skikking tussen Krygkor, VSA oor die oortreding van die wapenwet, *Die Burger*, 24 March 1995, p. 7; A. Rossouw, Krygkor gaan boete van R25 milj. in VSA betaal, *Beeld*, 24 March 1995, p. 1.

charges against Kentron, Fuchs Electronics and the seven individuals had to be dropped.<sup>70</sup>

By late June 1995, it seemed as if the case would never be resolved. The negotiative juggling just went on and on, despite continuous assurances from officials from both countries that they wanted to see a fast resolution to the case. When in late June 1995 the Clinton Administration was accused of dragging its feet in the resolution of the case and using the denial order against Armscor and its affiliates to protect the US arms industry against South African competition, it was simply denied. According to a spokesman for the US Department of State, the country had committed itself to free and fair arms trade and was not busy with any protective measures that were directed at the South African arms industry. He added that the Armscor case was not a trading matter, but a matter of application of US law.<sup>71</sup>

To make matters worse for Armscor, the Cameron Commission report was released in late July 1995. The strongly worded report accused the former apartheid government and armaments manufacturer Armscor of systematic disregard for the final destination of the arms that it had sold. The report brought to light Armscor's use of front companies and foreign intermediates to evade the United Nations arms embargo against South Africa, as well as sales to controversial countries. The report revealed a litany of falsified end-user certificates to hide the ultimate destination of weapons, whether imported into South Africa or exported to other countries.<sup>72</sup> Naturally, in the light of the report, the US Department of Justice was even more reluctant to strike a deal with Armscor, and the case continued.

#### 7.6.4.8 US military market opens up for South Africa

Almost as a proof of the above statement concerning being committed to free and fair arms trade, the US market opened for South African manufacturers of military-related

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70. A. Rossouw, SA, VSA naby skikking oor Krygkor verhoor, *Die Burger*, 7 June 1995, p. 11; M. Bosch, S. Africa arms agency in U.S. plea bargain bid, *Reuters*, 14 June 1995, p. unknown (Online document); Anonymous, SA, Amerika skik oor onwettige wapens, *Beeld*, 14 June 1995, p. 4.

71. Anonymous, Krygkorsaak: VSA 'steun vrye handel', *Beeld*, 17 June 1995, p. 2.

72. Anonymous, S. Africa illegally sold arms, reports says Government evaded U.N. embargoes, sent weapons to Yemen, *Minneapolis Star Tribune*, 22 July 1995, p. 2A; L. Duke, Arms deals by S. Africa detailed, *The Washington Post*, 26 July 1995, p. A20; J. Matloff, S. Africa armasmakers still stiff-armed by US even after apartheid, *The Christian Science Monitor*, 5 January 1996, p. 6.

products in September 1995, although only for a non-Armscor affiliated company. RDS, an affiliate of a company called Dorbyl, had signed an agreement with the US Department of Defense to test one of RSD's landmine detection systems with the aim of buying an unspecified amount of units for peace operations worldwide. RSD was one of several foreign firms who tendered for the US contract in this regard. Further good news was that another South African firm that manufactured mine detection systems, the Denel affiliate Mechem Consultants, was invited to exhibit its products in November 1995 in the US. These privileges had been denied to South Africa for many years as a result of the arms embargo against the country, and therefore excitement rode the high tide in South Africa, even in the shadow of the unresolved Armscor case. Nonetheless, the developments were expected to finally break the ice between the two countries with regard to cooperation in the development and trade in military equipment, despite the existing denial order against Armscor and its affiliates. What made the invitation to Mechem significant, was that the Clinton Administration, in the light of decisive foreign policy and national security considerations, had given permission that the denial order against Mechem, as part of Denel, could be temporarily lifted. A possible motivation for this temporary lifting was perhaps the fact that Mechem had recently clinched a United Nations contract of R21,6 million to de-mine 7000 kilometers of Angolan roads, thereby kicking dust in the eyes of US, Canadian, British and French competitors.<sup>73</sup> At last, it seemed as if there might be light in the dark tunnel of the Armscor court case saga.

#### **7.6.4.9 Protests against the Clinton Administration's stubbornness to resolve the case**

By October 1995, the ongoing Armscor case had pushed the South African Ambassador in the US, Franklin Sonn, to the point of irrationality. Irritated by the whole matter, he stated in public that the US' determination to punish Armscor for willful and massive violations of US law, had placed Mandela in the dock. Ironically, when the ANC Government came to power in April 1994, Armscor feared that now that the ANC was at the sharp end of its product, it would make Armscor 'walk the plank'. Eighteen months later, many members of the ANC Government, Sonn included, felt that Armscor and Mandela were one and the same. Furthermore, Sonn started to issue thinly veiled warnings to the US State Department that unless Armscor's indictment was settled to

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73. A. Rossouw, Militêre mark gaan oop vir SA, *Beeld*, 27 September 1995, p. 4.

the South African Government's satisfaction, he might take his case to blacks in the US. He threatened the Department of State that he might join a 'million man march' planned in Washington, D.C. by a highly controversial figure, Louis Farrakhan, the leader of the organization called 'Nation of Islam', later in October, and bring to Farrakhan's attention the way the Clinton Administration was 'persecuting' Mandela. Sonn subsequently denied that he had threatened to take the case to black America. Other threats included the calling of a meeting of African ambassadors to alert them to an imminent crisis in US-South African relations over the Armscor affair.<sup>74</sup>

Not everyone agreed with Sonn's approach to the dispute. Many in the South African political establishment felt that his approach was plain silly and naïve, because Armscor was charged with committing very serious crimes on US soil. This made the case a judicial one, thus, its fate had to be in the hands of the US judiciary. Furthermore, the US Government's executive branch was prohibited from interfering with the judicial branch under the US Constitution. Therefore, if Clinton or any of his executive branch members asked the US Attorney General to drop the charges, it would be improper and would cause a scandal. Furthermore, it was unlikely that the Attorney General would entertain such a request, as, in constitutional terms, it would require him/her to overrule the will of the American people as expressed through the grand jury that handed down the indictments. Lastly, Sonn's approach disregarded the major progress that had been made in a very short time regarding normalization of US-South African politico-military ties, which had been non-existent for many years due to the arms embargo. In addition to the cases already discussed, the Clinton Administration owed South Africa a lot for achieving what it wanted in April 1995 at the Nuclear Non-proliferation Treaty review conference - one of the most important international events since Nelson Mandela became the South African President in 1994. The South African signature of the Treaty offered the US a bridge to the non-aligned countries, and, by outlining a plan for indefinite renewal of the Treaty, helped the US to attain that goal. South Africa had emerged as a world leader among non-aligned nations in promoting nuclear non-proliferation and disarmament. Moreover, one only had to look at the red carpet that the US Department of Defense rolled out for the first civilian director-general of South Africa's defense ministry, Pierre Steyn, when he visited the US in September 1995. This

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74. S. Barber, Ambassador Sonn is playing the wrong hand over Armscor, *Business Day*, 10 October 1995, p. 14; A. Rossouw, SA se verwarrende seine beduiwel gesprek met Amerika, *Beeld*, 12 March 1996, p. 9; A. Rossouw, Agterdog tussen VSA, SA bemoeilik Krygkor skikking, *Die Burger*, 13 March 1996, p. 15.

signified the importance that the US placed on its politico-military relationship with South Africa. Lastly, the Clinton Administration actively promoted the kind of reforms South Africa had undertaken in a very short space, and viewed the country as fast becoming a model to the rest of the world.<sup>75</sup>

The Clinton Administration regarded Sonn's threat to discuss the case with Farrakhan as an implicit threat that South Africa would take the case to the Afro-American community to place pressure on the Administration to revoke the indictments against Armscor. To make matters worse, a week after Sonn's remarks, Mandela and Clinton met in New York, where Mandela again asked Clinton to get personally involved to revoke the charges against Armscor. Thereafter, three months followed in which no progress was made, except for the US negotiators saying that they were flexible about a deal. On the basis of this, a meeting of senior representatives of both governments was set for the week of 12 February 1996. But, two weeks before that meeting, Mandela decided to have a meeting with Farrakhan – perhaps an ill-calculated decision at the time, although it could also have been a warning to the Clinton Administration that the Armscor dispute could become a domestic political problem. To complicate the whole issue of the Armscor dispute even more, Mandela announced two days before the meeting that he intended to invite President Fidel Castro of Cuba and President Moeammar Ghaddafi of Libya to South Africa. Both these leaders were the figurative red cloth before the American bull. The Clinton Administration still feared that if the South African Government did not properly manage Armscor, it could sell its arms technology to such governments, which had no regard for human rights. This tested the US flexibility to a deal to its limits, not even to speak about the visit of Tokyo Sexwale, the Premier of the South African Gauteng Province, in the week before the meeting. Sexwale accused the US of arrogance because it had criticized his visit to Cuba.<sup>76</sup>

In addition to the South African challenge, the Clinton Administration also drew more and more domestic disapproval with its handling of the Armscor dispute. In January 1996, former Defense Secretary in the Reagan Administration, Casper Weinberger,

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75. S. Barber, Ambassador Sonn is playing the wrong hand over Armscor, *Business Day*, 10 October 1995, p. 14; B. Crossette, South Africa emerges as a force for extending nuclear arms pact, *The New York Times*, 23 April 1995, p. A1; T. Robinson & J. Boutwell, South Africa's arms industry: A new era of democratic accountability? *Armed Forces and Society* 22(4), Summer 1996, pp. 599-619.

76. A. Rossouw, SA se verwarrende seine beduiwel gesprek met Amerika, *Beeld*, 12 March 1996, p. 9; A. Rossouw, Agterdog tussen VSA, SA bemoeilik Krygkor skikking, *Die Burger*, 13 March 1996, p. 15.

slammed the Clinton Administration for what he termed the prosecution of the new South African Government through charges of arms smuggling by Armscor while the apartheid government was still in power. Weinberger viewed it as one of the most indefensible examples of the Clinton Administration's policy of opposing and ignoring the wishes of the US' friends, i.e. Great Britain, Japan, Poland, Hungary, the Czech Republic, etc. and appeasing the country's enemies, i.e. North Korea. According to Weinberger, the Clinton Administration was always eager to proclaim its support for and friendship with the new South African Government, but few people realized that the Departments of State and Justice were pursuing and prosecuting South Africa in ways that the Clinton Administration would not tolerate if the country involved were North Korea or Russia. The problem with the Armscor case, according to Weinberger, was that the South African Government had changed rather dramatically after 1989. This basic fact, however, appeared to have been overlooked by the US Departments of State and Justice. South Africa was now a free country – free elections had been held and Nelson Mandela had been elected State President. Therefore, the old policies that the US' laws were designed to oppose, i.e. the arms embargo control regulations and CAAA of 1986, had been revoked. As a result, the US' persecution of the new South Africa should have ended, but it had not. Furthermore, the new South African Government, even though it had not been guilty of the offences, offered a very reasonable settlement – it would allow one of its old contractors to plead guilty and would cooperate in continuing actions against two individuals. However, quite correctly, the South African Government refused to permit a Department of State official to roam around its weapons agencies, or to plead guilty to things it never did, or to pay fines that it could not afford – all for offenses of a previous government.<sup>77</sup>

Weinberger ended his critique by saying that the demands of the Clinton Administration were based on the old legal doctrine of successor liability. Therefore, he said, it was an absurd, unnecessary and dreadful example of abuse of prosecutorial power. Furthermore, US Attorneys and the Department of Justice always had discretion to determine whether to prosecute or to discontinue an ill-advised case. In this regard, the Department of Justice's guidelines required it to ask whether a substantial federal

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77. C.W. Weinberger, South Africa: The sins of the father are visited on the son, *Forbes* 157(2), 22 January 1996, p. 33; P. Fabricius, Clinton slammed over Armscor prosecution, *The Argus*, 17 January 1996, p. 2; P. Fabricius, Weinberger advises dropping arms case, *The Daily News*, 18 January 1996, p. 13; P. Fabricius, Don't punish new govt for apartheid's sins, says Weinberger, *The Star*, 19 January 1996, p. 6; T.W. Lippman & L. Duke, U.S. refusal to drop case against S. African firm causes friction, *The Washington Post*, 21 February 1996, p. A22.



interest would be served by prosecution. In the light thereof, Weinberger asked what substantial federal interest was served in harming the new South African Government? He pleaded for common sense to prevail, and the Attorney General to drop the case. Lastly, Weinberger said that it was more than time that South Africa's true friends demanded that the Clinton Administration stop its harassment of South Africa.<sup>78</sup>

By February 1996, bitter words about the Armscor dispute were again being flung around. Officials of the South African Government stubbornly held on to their belief that they should not be penalized for the misdeeds of the previous government. Furthermore, they added that a state-run company should not be legally subject to criminal prosecution overseas. As basis for this, they cited a precedent in 1991, when the Bush Administration decided against confiscating certain Iraqi central bank assets on the grounds that it constituted a challenge to a sovereign nation. Thus, the South African Government argued, the case against state-owned Armscor was a challenge to South Africa's sovereignty. But the United State remained stiff-necked, saying that a criminal case against a corporation, regardless of who owned it, did not make it immune to prosecution. Armscor was still under indictment and still a fugitive from US justice, regardless of South African political sensibilities.<sup>79</sup> In the words of a Clinton Administration official: *"Sure they're upset. They broke the law and they don't want to pay the penalty. Just because the government changed, that doesn't mean this changed"*.<sup>80</sup>

The heroic stance of the Clinton Administration on justice can be regarded as rather childish. The post-April 1994 South African Government had for many years fought the policies and acts of the pre-April 1994 Apartheid Government, which had violated the US arms embargo. Now the post-1994 South African Government had to take the blame for transgressions it had not committed. It can therefore be asserted in all

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78. C.W. Weinberger, South Africa: The sins of the father are visited on the son, *Forbes* 157(2), 22 January 1996, p. 33; P. Fabricius, Clinton slammed over Armscor prosecution, *The Argus*, 17 January 1996, p. 2; P. Fabricius, Weinberger advises dropping arms case, *The Daily News*, 18 January 1996, p. 13; P. Fabricius, Don't punish new govt for apartheid's sins, *The Star*, 19 January 1996, p. 6; T.W. Lippman & L. Duke, U.S. refusal to drop case against S. African firm causes friction, *The Washington Post*, 21 February 1996, p. A22.

79. J. Matloff, S. Africa armsmakers still stiff-armed by US even after apartheid, *The Christian Science Monitor*, 5 January 1996, p. 6; T.W. Lippman & L. Duke, U.S. refusal to drop case against S. African firm causes friction, *The Washington Post*, 21 February 1996, p. A22; M. Braid, Apartheid arms deals haunt new regime, *Independent*, 15 July 1996, p. unknown (Online document).

80. As quoted in T.W. Lippman & L. Duke, U.S. refusal to drop case against S. African firm causes friction, *The Washington Post*, 21 February 1996, p. A22.

honesty that the Clinton Administration was not seeing the forest of a changed South Africa as a result of being blinded by the single tree of justice.

In the meantime, discussions between Vice-Presidents Mbeki and Gore continued. A proposal that was now being discussed was for Clinton to override the denial order against Armscor and its subsidiaries in return for South Africa allowing US officials to inspect any defense-related factory or documents to ensure that South Africa did not continue to export arms to hostile third countries. But just to make their stance clear again, the South African Embassy in the US in February 1996 issued a statement. The statement read that the US Department of Justice insisted that Armscor and one of its subsidiaries, which were agencies of the current South African Government and therefore partook of its sovereignty, submit to the criminal jurisdiction of the US courts, enter pleas of guilty to the charges against it and pay fines amounting to several millions of dollars. The statement reiterated that South Africa would not waive its sovereignty by permitting these two corporations to plead guilty. In addition, the South African Government refused to assign huge sums of money from its national revenues for the payment of fines in the US, as it would be tantamount to offering atonement for the transgressions of a previous government.<sup>81</sup>

#### **7.6.4.10 Agreement, at last**

In mid-February 1996, high-ranking officials of both the US and South African Governments met in Washington, D.C. in a final effort to resolve the Armscor dispute. The Clinton Administration made some undisclosed proposals to the South African delegates, which both parties agreed would not be made public until the South African Government had a chance to consider it. Franklin Sonn, the South African Ambassador in the US, only said after the meeting that South Africa would under no circumstances allow its sovereignty to be jeopardized by the Armscor court case or agreements with the US. He said it was not negotiable; therefore, if the US kept on demanding that the South African Government admit guilt on transgressions of the previous South African Government, there could be no agreement. In such a case, the South African Government would authorize its legal representatives in the US to apply in court in Philadelphia that the charges against Armscor and Kentron be thrown out on the basis

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81. T.W. Lippman & L. Duke, U.S. refusal to drop case against S. African firm causes friction, *The Washington Post*, 21 February 1996, p. A22.

that the court had no jurisdiction over a sovereign entity, and in this case, over the South African Government as the single shareholder of Armscor and Kentron. According to Sonn, there was no precedent for the case. However, the US regarded the South African proposals as an unallowable diversion from US judicial practice.<sup>82</sup>

In early March 1996, officials from both the US and South Africa involved in the negotiations for a settlement had to head off a crisis after Sonn made yet another controversial remark. He said that the countries faced a reduction in diplomatic relations because of the Armscor case. South Africa might suspend high-level visits with the US and withdraw from the US-South Africa Binational Commission if a resolution was not agreed upon soon. After the statement, the South African Department of Foreign Affairs quickly issued a statement that said that Sonn had sought to convey the seriousness of the dispute, but did not intend to link the resolution thereof to the activities of the Binational Commission and other high-level exchanges. The US Embassy in South Africa in turn said that it had no indication from South Africa of any dissatisfaction with the Binational Commission as a result of the Armscor dispute, and that the US remained fully committed to the Commission. Nonetheless, Sonn's remark further clouded the ongoing dispute, which by now was termed an irritant in US-South African relations.<sup>83</sup>

By June 1996, the South African Government had not yet decided whether they would accept the US' proposals of February 1996. In the meantime, Armscor General Manager, Eric Esterhuysen, told reporters at a news conference that the US arms embargo against the company and its affiliates had not been entirely negative. On the contrary, it had helped South Africa's defense industry to sell to countries seeking to remain outside of the US' influence. He said that what had transpired from the embargo was that most of the South African defense industries in the previous few years had found substitutes or alternatives to US-manufactured parts, which in a certain sense benefited the South African defense industries because there were countries who were looking for products that did not contain US-manufactured parts. The reason for this, according to Esterhuysen, was that the US, being the only superpower left, could control international policies through selling arms or controlling arms. Therefore, the

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82. A. Rossouw, Krygkor-krisis met Amerika op spits gedryf, *Beeld*, 6 March 1996, p. 1.

83. L. Duke, S. Africa, U.S. try to tone down conflict left from apartheid era, *The Washington Post*, 6 March 1996, p. A10; P. Fabricius, US-SA commission 'never in jeopardy', *The Star*, 7 March 1996, p. 8; S. Barber, Sore spot in US-SA links, *Sunday Times*, 21 July 1996, p. 4.

South African arms were attractive to countries that wanted to retain an element of independence for their armed forces.<sup>84</sup>

In mid-July 1996, Mbeki left for the second meeting of the Binational Commission to be held in the US from 22-23 July 1996, amid threats from South African Government ministers to reveal details of clandestine deals between the US and previous South African Governments, if the US did not drop the Armscor case. It was expected that Mbeki would seek a final settlement of the Armscor dispute in his meetings with Gore. In a telephonic conversation with Gore just before he left, Mbeki was urged to accept a face-saving deal under which Armscor would plead no contest to the charges against it. This would have meant that Armscor would throw itself upon the mercy of the US court. After intense talks with Gore while in the US, Mbeki announced on 24 July 1996 that he had reached an accord with the Clinton Administration that should lead to the complete lifting of the US arms embargo against South Africa, but it had yet to be approved by the US Department of Justice. Shortly after Mbeki's announcement, the White House announced an agreement in principle on the import and export of arms between South Africa and the US, which apparently met the interests of both countries and represented a successful effort to resolve a difficult bilateral matter. Armscor would plead no contest in the Philadelphia court to charges of breaking US arms export laws and the arms embargo between 1978 and 1989, but would pay about \$12,5 million as fine. In an important concession, the agreement stipulated that Denel, Armscor's commercial successor, would not face the usual one-year period of debarment from doing business with US arms companies. This concession would allow it back into US arms business the moment the agreement was formalized. In another concession, some of the \$12,5 million fine would be channeled back to South Africa to finance a compliance program to ensure that the indicted firms would in future only use licensed US arms.<sup>85</sup>

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84. S. van der Walt, VSA-verbod 'baat party' in SA, *Beeld*, 14 March 1996, p. 18; L. Fine, S. Africa says U.S. arms embargo helped some sales, *Reuters*, 11 June 1996, p. unknown (Online document).
85. T. Brown, S. Africa's Mbeki to meet Gore in Washington, *Reuters*, 11 July 1996, p. unknown (Online document); M. Braid, Apartheid arms deals haunt new regime, *Independent*, 15 July 1996, p. unknown (Online document); S. Barber, Sore spot in US-SA links, *Sunday Times*, 21 July 1996, p. 4; D. Shiels, S. Africa's Mbeki reports an end of arms dispute with U.S., *Reuters*, 25 July 1996, p. unknown (Online document); Anonymous, Leaders express hope over Armscor issue, *The Star*, 25 July 1996, p. unknown (Online document); E. Gibson, Skikking kom oor Krygkorgeskil, *Beeld*, 26 July 1996, p. 1; P. Fabricius, SA and US resolve arms smuggling case, *The Star*, 26 July 1996, p. unknown (Online document).

The agreement, with all its concessions, represented a grudging backdown by the South African Government. For the first time, Mbeki in his announcement of the accord recognized the US' concern that its laws had been broken and that one cannot just walk in, break the law and walk away. In essence, it had now been agreed that Armscor should submit to the US legal system. The no contest plea did not change this, although it softened the political impact, i.e. it allowed the South African Government to tell its constituency that it did not admit guilt for the transgressions of the previous apartheid government, but merely accepted its legal responsibilities. Nonetheless, although the agreement was still tentative, it was good news. Politically, the case poisoned what was otherwise excellent relations between the new South African Government and the US. Commercially, it was also welcome, because the US arms embargo against Armscor and its affiliates would be lifted.<sup>86</sup> According to the *Saturday Star*, the case offered two lessons to the South African Government: "One, when you take over SA Inc you also assume its debts; and two: Uncle Sam has a smiling face but hates to lose."<sup>87</sup>

On another note, it seemed as if the US felt that it had scored a major victory and could now continue with similar cases against South African companies. Not long after the tentative deal, a South African hunting supply retailer, Suburban Guns Pty Ltd, was charged with three counts of US export control evasions for shipping \$1,8 million in hunting rifles and ammunition to South Africa in violation of the arms embargo. The shipments took place between April 1983 and September 1992. Suburban Guns bought the guns and ammunition from ten different US manufacturers, including Jonas Aircraft and Arms, U.S. Repeating Arms Co./Winchester, and Remington Arms. At the time, US Department of Commerce regulations required firearms exporters to obtain a license to ship guns and ammunition. But because of the arms embargo, the Department of Commerce refused to grant a license to export the arms to South Africa. Suburban Guns then urged some of its suppliers to apply for an export license to ship the guns by ocean freight to Zimbabwe and Namibia, although Namibia was also supposed to be included

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86. Anonymous, Leaders express hope over Armscor issue, *The Star*, 25 July 1996, p. unknown (Online document); P. Fabricius, SA and US resolve arms smuggling case, *The Star*, 26 July 1996, p. unknown (Online document); Anonymous, Lessons to be learnt as SA and US bury Armscor hatchet (Editorial), *Saturday Star*, 27 July 1996, p. unknown (Online document).

87. As quoted in Anonymous, Lessons to be learnt as SA and US bury Armscor hatchet (Editorial), *Saturday Star*, 27 July 1996, p. unknown (Online document).

in the arms embargo against South Africa. Suburban Guns then diverted the firearms and ammunitions to its store in Cape Town.<sup>88</sup> The outcome of this case is unclear.

#### 7.6.5 THE COMPLETE LIFTING OF THE US ARMS EMBARGO AGAINST SOUTH AFRICA

The agreement between Mbeki and Gore in July 1996 took a few months to be finalized. Since the agreement, representatives of both Governments met often to work out the details thereof. On 21 November 1996, it was reported that a favorable deal had been struck two weeks before when US officials visited South Africa. This meant that the US arms embargo against South Africa was lifted in theory and that the arms trade between the countries would be fully normalized. However, the deal had still had to be approved by the US Department of Justice, and it was expected that it would only be made formally known by February 1997, when the Binational Commission of cooperation between South Africa and the US would meet again in Cape Town. According to the deal, Armscor would have to pay a R7 million fine, while Fuchs Electronics had to pay R52 million.<sup>89</sup>

The fines were huge, but the shock thereof was a little dampened by what South Africa would get in return. First of all, the amounts were less than half of the amount that had been negotiated in 1995. Secondly, in the first practical outflow of the deal, the US gave South Africa five Hercules C-130 military transport aircraft, of which two would leave for South Africa at the end of November 1996. The rest would follow a few months later. The donation of the aircraft was already approved in 1995 by the Departments of State and Defense, but due to the Armscor dispute, it was held back until an agreement was reached. The donation was regarded as symbolic of the lifting of the US arms embargo against South Africa. The lifting of the embargo signified that several South African-manufactured weapons systems and equipment could be enhanced with US-manufactured components. That would help the South African arms export market tremendously, which would in turn yield an annual income of several millions of Rands for South Africa. South Africa experts were very excited about the deal, saying that arms dealers in the US had already started to make a 'shopping list' of

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88. M. Salcedo, S. African gun retailer charged, *Newsday*, 25 October 1996, p. unknown (Internet document).

89. A. Rossouw, Yanks skik oor Krygkor, verbod waai, *Beeld*, 21 November 1996, p. 2; Anonymous, Skikking, *Beeld*, 22 November 1996, p. 12.

South African military equipment. Among the most sought after equipment was South Africa's unique landmine detection system, called Chubby. The Chubby consisted of three different vehicles, i.e. the Meerkat, the Husky and the Duisendpoot. It could not only detect metal landmines, but also plastic ones. The US Department of Defense had already tested the system, and a team of eight US Defense Force members were sent to South Africa at the end of November 1996 to negotiate over the sale of twenty-two Chubby's to the US. The US was furthermore much interested in South Africa's Mamba mine resistant vehicles, for which a sale was also deemed imminent.<sup>90</sup>

In mid-January 1997, it seemed as if the Armscor deal would yet again fail. The reason this time was a row that broke out after it became clear that the South African Government wanted to sell arms to Syria, whom the US regarded as a sponsor of terrorism. In a warning to the South African Government, the Department of State said that some types of US assistance were barred for countries that sold military items to countries listed by the US as being sponsors of terrorism. The proposed sale included tank firing-control systems and cooperation on spy satellites and nuclear research. Exerting even more pressure, the chairman of the US Senate Foreign Relations Committee, Jesse Helms, who was regarded as being very influential, urged the Clinton Administration to cut foreign aid of \$120 million to South Africa and to cease all activities aimed at settling the Armscor dispute, unless the South African Government provided credible assurances that the tank fire control systems would not be exported to Syria. Helms deemed it unthinkable that the Clinton Administration would reward the South African arms industry with significant financial benefits resulting from the resolution of the Armscor dispute, while the South African Government was contemplating a major arms sale to a terrorist nation. Helms regarded the tank firing control systems as being lethal military equipment, which made it mandatory that foreign aid to South Africa be suspended, according to the US Anti-terrorism Act. Other individual members of Congress backed Helms, with some even planning the

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90. A. Rossouw, SA, Yanks skik oor Krygkor, verbod waai, *Beeld*, 21 November 1996, p. 2; E. Gibson, SA sal hulp kry van VSA met wapentuig; Uitvoer sal aansienlik toeneem, *Beeld*, 22 November 1996, p. 7; A. Rossouw, Hercules-vliegtuie vertrek eersdaags van VSA na SA, *Beeld*, 25 November 1996, p. 8; E. Gibson, 2 VSA-vliegtuie in SA bewys dat boikot verby is, *Beeld*, 12 December 1996, p. 5; Anonymous, Amerika koop dalk SA landmyn-veërs, *Beeld*, 4 December 1996, p. 2.



reinstitution of sanctions similar to those instituted in 1986. Some of these measures would also jeopardize future South African military sales to the US and NATO.<sup>91</sup>

Mandela angrily rejected the Department of State warning, saying that South Africa would conclude agreements with any country, whether they were popular in the West or not. He further said that the South African Government would meet soon to take a decision that would be in the interest of South Africa. However, he reiterated, the decision would not be based on any influence by any country. Mandela was particularly enraged that the Department of State issued the warning in public before discussing it with him first. The South African Foreign Ministry's director general, Rusty Evans, in turn indicated that a number of countries, including three European nations, were trying to sell virtually the same equipment to Syria. He asked why was South Africa then singled out for the bad treatment by the US? Yet another South African official said that as far as South Africa was concerned, the Armscor dispute had been laid to rest. Only the legal documents were still outstanding, but it was expected to be tabled at the next meeting between Mbeki and Gore. Lastly, Cheryl Carolus, the acting secretary-general of the ANC, said the party was satisfied with the South African Government's arms trade policy. She emphasized that South Africa was a sovereign country that was completely capable to decide to whom to sell its weapons. Therefore, the country took strong exception against any country that tried to bully it.<sup>92</sup>

After the initial storm over the proposed Syria deal had lost some of its fury, Mbeki announced that South Africa would have official conversations with the US over the matter, because it was found that poor communication channels had created the new tension. Also, the South African Government had decided to postpone the final decision over the transaction. In the US, Helms was reprimanded for drawing the issue out of

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91. Anonymous, U.S. may cut aid if arms sale to Syria is made by Pretoria, *The New York Times*, 14 January 1997, p. A9; Anonymous, Helms urges halt to U.S. aid to Pretoria, *Reuters*, 17 January 1997, p. unknown (Online document); R. Mkhondo, US senator urges Clinton to stall Armscor deal until SA aborts arms sale, *The Star*, 24 January 1997, p. unknown; A. Rossouw, Wapens aan Sirië: VSA-Kongreslede oorweeg sanksies, *Beeld*, 23 January 1997, p. 1.
92. S. Daley, South Africa rejects U.S. warnings on sale of arms to Syria, *The New York Times*, 16 January 1997, p. A6; Anonymoys, America, Syria and South Africa (Editorial), *The New York Times*, 19 January 1997, p. D14; R. Mkhondo, US senator urges Clinton to stall Armscor deal until SA aborts arms sale, *The Star*, 24 January 1997, p. unknown; N. Bezuidenhout & E. Gibson, VSA skynheilig en 'n boelie, sê ANC, *Beeld*, 21 January 1997, p. 2; Anonymous, Dit gons in Amerika oor die gespanne betrekkinge met SA, *Beeld*, 28 January 1997, p. 9.

context, and urged not to immediately demand the imposition of sanctions against South Africa if it set only one foot a little bit out of line.<sup>93</sup>

On 24 January 1997, a final agreement was reached between the US and South African Governments. The agreement would be signed when Mbeki and Gore met later in March 1997. In the meantime, a judge in Philadelphia, Jan Dubois, would check the settlement, which would formally end the criminal and civil legal proceedings against Armscor, Fuchs Electronics and Kentron. Armscor had reluctantly agreed to a control system where a South African would do the monitoring of arms imports from the US for three to four years, so that the country's sovereignty was not affected. The settlement also provided for the seven South African individuals to provide evidence if needed against Robert Ivy of ISC. Furthermore, the fines were detailed as follows: Armscor \$1 million (about R4,5 million), Kentron \$500,000 (about R2,5 million) and Fuchs Electronics \$11 million (about R50,25 million). Officials involved in the negotiation process confirmed the figures. The money for the fines would remain in South Africa in a trust with the Government, and would be used to strengthen the national arms export control system, which had been severely damaged by the disclosure of the pending South Africa-Syria arms sale.<sup>94</sup>

On 27 February 1997, Armscor and Kentron pleaded no contest on a count of violating the US arms embargo against South Africa. According to US law, a plea of no contest was treated as a guilty plea; therefore the two companies were fined \$1 million and \$500,000 respectively. In their plea agreements, Armscor and Kentron acknowledged that they had obtained shipments from ISC by routing them through front companies. Fuchs Electronics pleaded guilty on eleven related charges and was fined \$11 million. In addition, all three firms had to pay \$6.25 million in lieu of civilian penalties. According to US law, for every fine that had to be paid in a military case, half of that fine had to be paid to Government. The Clinton Administration however decided to forfeit its part of the fine and give it to the South African Government to set an arms-trading compliance program in place to help monitor South African arms sales. For this, the three companies had to compile a manual of adherence for authorization by the US. The

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93. A. Rossouw, Wapens aan Sirië: VSA-Kongreslede oorweeg sanksies, *Beeld*, 23 January 1997, p. 1.

94. Armscor Compliance Office, *Essentials of the Armscor Compliance Programme*, p. 3; Anonymous, SA and America bury the hatchet on Armscor case, *Cape Argus*, 30 January 1997, p. unknown (Online document); N. Chandler, South African arms companies to pay millions to US to end sanctions-busting case, *The Star*, 30 January 1997, p. 3; N. Chandler, SA and US agree to settle arms deal row, *Pretoria News*, 30 January 1997, p. 1.

manual had to detail procedures to ensure that US origin defense articles, services and technical data were transferred to Armscor with the necessary authorization, were properly tracked while in the possession of Armscor, and that all transfers to third parties were authorized and shipped in accordance with US requirements. All three companies furthermore agreed to cooperate in an investigation of US involvement in the arms smuggling during the arms embargo years. The seven South African individuals also pleaded guilty, but were not convicted.<sup>95</sup>

The South African Government was delighted that the Armscor dispute had now been finally settled in court after almost six years. According to Ricky Naidoo, spokesman for Mbeki, the settlement paved the way for the normalization of relations between the US and South Africa and the final end of the 34-year-old arms embargo against South Africa (1963 – 1977, voluntary; 1977-1997 mandatory). Naidoo added that the court decision was a political decision, and that details of the resumption of the arms trade between the two countries had yet to be ironed out. South African Deputy Foreign Minister Aziz Pahad in turn said that the Clinton Administration had agreed that all export restrictions on US arms companies and import restrictions on arms imports from South Africa would be lifted once the case was settled. He felt that the diplomatic negotiations over the dispute had been an example of the success of the relations between the US and South Africa. Advocate Mojanku Gumbi, the South African Government's legal representative in the case, regarded the fines as very reasonable, especially in the light of the original very large claim against the companies.<sup>96</sup>

In retrospect, *The Star* newspaper asserted that the Armscor dispute created a very difficult task to reach a settlement, and that the benefits and disadvantages of the dispute would probably puzzle politicians for years to come. The dispute led to frequent spats between government officials from both countries; the case had cost South

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95. Anonymous, South African firm pleads no contest on arms charges, *Reuters*, 27 February 1998, p. unknown (Online document); N. Mordant, Settlement signals end to U.S. arms ban on S.Africa, *Reuters*, 28 February 1997, p. unknown (Online document); Anonymous, R56-m fines settle arms row with US, *Cape Argus*, 28 February 1998, p. unknown (Online document); Anonymous, Regering bly wapensaak is afgehandel, *Beeld*, 1 March 1997, p. 4; Anonymous, Blue skies ahead after murky fog of Armscor case, *Cape Argus*, 7 March 1997, p. unknown (Online document); Anonymous, Verregaande eise van VSA knel wapenbedryf; Amerika wil inspraak hê in dié SA produkte, *Beeld*, 29 July 1997, p. 11; Armscor Compliance Office, *Essentials of the Armscor Compliance Programme*, p. 3.

96. N. Mordant, Settlement signals end to U.S. arms ban on S.Africa, *Reuters*, 28 February 1997, p. unknown (Online document); Anonymous, Regering bly wapensaak is afgehandel, *Beeld*, 1 March 1997, p. 4.

African taxpayers millions of Rands in legal fees; and, at times, the case directly impacted on both countries' foreign policies. However, despite all this, the end of the case had removed the last obstacle that stood in the way of fully restored US relations and ended the embargo on Armscor, its affiliated companies and other private companies. Finally, *The Star* gave credit for the resolution of the dispute to the efforts of Mbeki and Gore, stating that the case could have dragged on for several more years, had they not intervened.<sup>97</sup>

The case should have ended here, but it did not. Although military relations between the US and South Africa entered a new epoch in July 1997 with the establishment of a defense committee as addition to the Binational Commission between the two countries, the Armscor dispute still left some murky waters behind. The dispute was resolved in court, but in practice, the arms embargo was still active. The US were still hypersensitive over Armscor and Denel's arms deals, although Mandela had placed it under strict control. Furthermore, the US made far-reaching demands with regard to South African arms. Even if a South African-manufactured weapon or weapons system only contained a small US-manufactured component, the latter demanded full authority over the weapon or weapons system and the sale thereof. In addition, manuals were demanded for each of seven South African companies involved in arms manufacturing, in which it was detailed what programs were being followed to comply with US guidelines. Lastly, although the Armscor settlement agreement stipulated that a South African would do the auditing and monitoring of South African arms sales for three to four years, the Clinton Administration now demanded that it be an American citizen. South African experts regarded this a threat to trade secrecy.<sup>98</sup>

In the light of the abovementioned demands of the US, the South African arms industry complained that the delay to comply with US demands was costing South Africa millions of Rands in foreign exchange. It especially complained about the rejection of the compliance manual that had been submitted to the US Department of State's politico-military division. However, South African Defense Minister Joe Modise denied that there had been any tension between the US and South Africa over the establishment of a

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97. Anonymous, Armscor boil is finally lanced, *The Star*, 6 March 1997, p. unknown (Online document).  
98. J. Holzapfel, Handel met Amerika weer in die kollig, *Beeld*, 24 July 1997, p. 4; A. Rossouw, Donker geheime; wapenwette wat gekrap kan word, *Beeld*, 29 July 1997, p. 8; Anonymous, Verregaande eise van VSA knel wapenbedryf - Amerika wil inspraak hê in dié SA produkte, *Beeld*, 29 July 1997, p. 11.

defense industry compliance program, which stood in the way of the complete lifting of the embargo on Armscor and its affiliates. The compliance program would replace the denial order, which, according to US law, would deny any military trade between the US and South Africa for three years. According to Modise, the launch of the program had been caught up in bureaucratic red tape, the shunting of documents between lawyers and ministries, and countless dispatches of the documents through diplomatic channels. Initially, lawyers of both countries were confident that it would only take three to six months to finalize the compliance program, but now it would seem that it would take at least a year.<sup>99</sup>

By October 1997, the US delay in finishing the paperwork regarding the Armscor dispute caught up with it. South Africa had invited eight countries, excluding the US, to submit proposals for the improvement of the SANDF's equipment. The US were not invited because of the denial order against Armscor and its affiliates, which still prohibited exports to these entities because of the uncompleted paperwork. It would be remembered from an earlier discussion that the denial order also included the SANDF, because Armscor was its sole procurement agency. This fact led to much unhappiness in US arms manufacturing circles. Especially the aircraft provider McDonnell-Douglas was outraged at the situation. In the light of this, the Clinton Administration announced in late November 1997 that it was satisfied with South Africa's final draft of the compliance program, which would be ratified early in 1998 after some technical changes were made and a team of US officials had visited South Africa to satisfy themselves that every aspect would be followed to the letter. Accordingly, the arms embargo on Armscor and its affiliates would then be practically lifted within three months.<sup>100</sup>

By February 1998, the arms embargo against Armscor and its affiliates were still not lifted. Furthermore, in what could perhaps have been retaliation for not being invited to submit proposals for improvements to the SANDF, the Clinton Administration refused to approve the sale of 36 Swedish-built Gripen jet fighter aircraft to South Africa. Saab

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99. Anonymous, Verregaande eise van VSA knel wapenbedryf - Amerika wil inspraak hê in dié SA produkte, *Beeld*, 29 July 1997, p. 11; Anonymous, Lifting of Armscor ban 'held up by red tape', *Cape Argus*, 31 July 1997, p. unknown (Online document); E. Gibson, VSA-wapenvervaardigers kan nie vir dié SA kontrak tender, *Beeld*, 18 October 1997, p. 2.

100. E. Gibson, VSA-wapenvervaardigers kan nie vir dié SA kontrak tender, *Beeld*, 18 October 1997, p. 2; R. Mkhondo, US arms embargo to be lifted soon, *Cape Argus*, 25 November 1997, p. unknown (Online document).

Aerospace, which manufactured the Gripen, was on the shortlist to supply South Africa with jet fighter aircraft, but a third of the Gripen consisted of components that were manufactured in the US. Saab Aerospace confirmed the US refusal, saying that it had asked the US, in terms of its offset deal with the US on American components in the aircraft, for a marketing permit in January 1998 in the final run-up to the South African decision on a provider. The US refused because the embargo against Armscor and its affiliates were still in place.<sup>101</sup>

Although the SANDF would only announce in May 1998 who had won the bid for the supply of fighter aircraft, it anticipated a huge row over the refusal involving South Africa, the US, Sweden and Britain. Britain was involved because Saab Aerospace marketed the Gripen through British Aerospace. However, the South African Government later seemed non-plussed about the refusal, saying only that it expected a lifting of the arms embargo against Armscor and its affiliates soon. According to Mbeki's office, South Africa had done everything possible to assure the US of its commitment to complying with the terms set out in the settlement agreement, and it was only a matter of time before the final documents were ratified. It was also expected that the US would then reconsider the sale of the Gripen aircraft.<sup>102</sup>

On 28 February 1998, it finally happened: the US arms embargo against Armscor and its affiliated companies because of arms smuggling indictments in the US, was lifted. In a joint statement, Mbeki and Gore said that they had ratified a joint defense industry compliance program<sup>103</sup> during discussions the day before, which immediately opened the way for renewed arms trade with the US. Not only would South Africa now be allowed to export complete US weapons and weapons components, but also to include US technology in its own weapons systems built for export and to buy arms from other countries that included US-manufactured components. Before the compliance program

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101. Anonymous, VSA weier dat vliegtuie aan SA verkoop word, *Die Volksblad*, 17 February 1998, p. 2; Anonymous, US arms ban halts SA fighter deal; huge row expected, *Cape Argus*, 17 February 1998, p. unknown (Online document); E. Ferreira & A. Kotzé, Aankondiging oor vegvliegtuie met verbasing begroet, *Beeld*, 17 February 1998, p. 4.

102. Anonymous, US arms ban halts SA fighter deal; huge row expected, *Cape Argus*, 17 February 1998, p. unknown (Online document); E. Ferreira & A. Kotzé, Aankondiging oor vegvliegtuie met verbasing begroet, *Beeld*, 17 February 1998, p. 4; Anonymous, VSA weier dat vliegtuie aan SA verkoop word, *Die Volksblad*, 17 February 1998, p. 2; Anonymous, S. Africa expects U.S. to lift arms ban soon: Official, *Xinhua News Agency*, 18 February 1998, p. unknown (Online document).

103. See Appendix V for a complete summary of the Armscor Compliance Programme.

was ratified, technical experts from both countries formalized the program in Pretoria, to ensure that the two countries did not pass secrets to third parties or other countries.<sup>104</sup>

The announcement was welcomed with joy in South Africa. Denel announced that it was excited about prospects of arms dealing with the US, but was nonetheless carefully optimistic that huge orders would come to it on the short term. Because the US arms industry was the largest in the world, it would be an uphill struggle for South African arms manufacturing company to make an impression there. On the other hand, US companies wanted to bid for the improvement of the SANDF, and this was probably one of the major reasons why the case was solved at last. Denel expected that the US would now exert pressure on South Africa to be allowed to tender at such a late stage. It was also expected that the refusal to grant a license for Saab Aerospace for the sale of its Gripen aircraft to South Africa would now be reversed. Also, even more positive for Denel was the fact that South Africa could now learn from the US regarding aircraft technology, in which the latter was the undisputable world leader at the time. Lastly, Denel could now for its Rooivalk attack helicopter obtain the necessary US systems that many countries interested in the helicopter required.<sup>105</sup>

Some restrictions remained after the lifting of the arms embargo, i.e. the compliance manual<sup>106</sup> and an ombudsman who had to monitor future transactions. South Africa was subjected to these requirements until 21 July 2004, when it was also lifted unreservedly. With that, the cloud that had remained over South African arms deals since the lifting of the arms embargo in 1998, completely vanished. South Africa could now compete on a level arms trade playground.<sup>107</sup>

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104. R. Mkhondo, SA defense agreement with the US at last, *Saturday Star*, 28 February 1998, p. unknown (Online document); M. Granelli, US lifts arms blockade on SA; All clear for R1 billion deals, *Cape Argus*, 28 February 1998, p. unknown (Online document); Anonymous, Amerika hef verbod teen wapenhandel met Suid-Afrika op, *Beeld*, 28 February 1998, p. 2; T. Weiner, U.S., after 35 years, lifts arms embargo against South Africa, *The New York Times*, 28 February 1998, p. A4; Anonymous, VSA se verbod teen SA ná 7 j. opgehef, *Die Volksblad*, 28 February 1998, p. unknown; Anonymous, U.S. ends South Africa arms embargo, *The Washington Post*, 28 February 1998, p. A16; Armscor Compliance Office, *Essentials of the Armscor Compliance Programme*, pp. 3, 6.

105. Anonymous, Denel opgewonde oor opheffing van sanksies tussen SA en VSA, *Die Volksblad*, 3 March 1998, p. 11; E. Gibson, 'Stryd wag op SA wapenbedryf om indruk in VSA te maak, *Beeld*, 3 March 1998, p. 11; Anonymous, A cheery smile and a cold eye (Editorial), *Pretoria News*, 5 March 1998, p. 11.

106. See Appendix V for a complete summary of the Armscor Compliance Programme.

107. E. Gibson, SA wapenboeie in VSA losgemaak, *Beeld*, 22 July 2004, p. 10.



## 7.7 CONCLUSION

The Clinton Administration witnessed many firsts in South Africa. When Clinton took office as US President in 1993, the political transformation in South Africa was already far advanced. The white minority government of many years was finally talking to Nelson Mandela and the ANC. The negotiations were not without hick-ups, but were nonetheless remarkable. Within three months of becoming President, Clinton witnessed two previously unprecedented acknowledgements by the South African Government: first, South Africa had an advanced ballistic missile program; and second, the country had a nuclear weapons program, which had resulted in six and a half nuclear bombs being developed between 1978 and 1989, thus slap-bang within the time span of the mandatory arms embargo. There had been many rumors during the embargo years that South Africa had such programs, but it could never be proven and the country never admitted it despite heavy pressures from the US. Now one South African surprised the world by openly disclosing it. South Africa became the first nation to fully develop a nuclear arsenal and then voluntarily dismantle it. That led to the country emerging as a world leader among non-aligned nations in promoting nuclear non-proliferation and disarmament. Moreover, in April 1995, only two years after De Klerk's announcement, South African diplomacy played a significant role in United Nations-sponsored talks that forged a consensus among member nations of the Nuclear Non-proliferation Treaty to extend the agreement indefinitely.

The voluntary disclosures promoted South Africa's image in the world tremendously, especially because it became the first country to destroy its nuclear arsenal without pressure from outside. However, it did not seem to do South Africa's image in the US much good, because the Clinton Administration kept on doubting that South Africa had come completely clean, as was evidenced by spying activities and South Africa's retainment on a highly sensitive watch list. As with the Bush Administration, the Clinton Administration played its policy towards South Africa closely according to the book. It seemed that it did not fully trust that the political transformation in South Africa was for real, even after April 1994, when the ANC won the first elections ever in South Africa based on the principle of 'one man, one vote', and Mandela became the first black South African President. Clinton later became very fond of Mandela and the two remained friends after both their presidential terms had expired. In the early years, however, although Clinton expressed a genuine fondness and respect for Mandela,

heavy words often fell between them. The reason for this was the unresolved Armscor court case in the US that had rolled over from the Bush Administration. Mandela asked Clinton to intervene to settle the case, but the latter declined because it would have meant that he was intervening with US judicial processes. This would have done him immense harm among the US voting body, and he wanted to remain in office for a second term. Despite promises to Mandela that he would do what he could, he left the case to run its course. This created much tension between the two governments, and although many other positive relationships were forged, it was always in the shadow of the Armscor case.

The Armscor case also caused a clash of interests. The US Department of Defense was much interested in South African-produced military systems, and was eager to trade. Yet, they were bound by a denial order against Armscor and his affiliates and offshoot companies. This led to much frustration, especially after South African invited tenders for the upgrading of its defense force and the US was excluded. But the Clinton Administration remained stiff-necked, arguing that they could not yet fully trust South Africa not to sell arms to its enemies. Even after Mandela sorted out Armscor's law-violating image and imposed strict controls on the company, the Clinton Administration remained doubtful. For many, this implied distrust in the South African Government, which fuelled tensions even more. The South African Government felt that South Africa as sovereign nation was being attacked. The Armscor case was resolved in 1997 after much political tug-of-war efforts, but the arms embargo was only lifted in 1998. Even after that, some clauses remained that kept Armscor and other South African arms production companies from freely participating in the open military market until 2004, when these clauses were lifted unreservedly.

## CHAPTER 8

### SUMMARY AND FINAL CONCLUSION

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In Chapter 1, it was stated that the aim of this study was to analyze the institution and implementation of the 1977 mandatory arms embargo against South Africa by the United States. The reasoning behind this was that close scrutiny of the implementation of the arms embargo would allow the researcher the opportunity to judge the seriousness that the US assigned to the objectives of the arms embargo. Full compliance with the embargo would demonstrate the commitment of the US to end the policy of apartheid in South Africa. On the other hand, any relaxation of the arms embargo by the US would have been interpreted by international observers, especially from the Afro-Asian nations, as a retreat from the commitment to eradicate the policy of apartheid. Also, the enforcement of the arms embargo by the US often raised the important question on the ability of major arms producers like the US to reduce the threat of global violence by controlling the flow of arms to potential belligerents. Lastly, implementation of the arms embargo by the US tested the latter's capacity to put measures in place to successfully block arms and related items being exported to the country against which the measure was imposed.

The following questions constituted the problem statement:

- 1) Why did the US under the Carter Administration institute the mandatory arms embargo against South Africa in 1977? Did it signify a more hard lined change in US foreign policy with regard to South Africa, or was it intended only as a limited measure to appease the Afro-Asian countries, while on the other hand maintaining the continued support of the South African Government with regard to anti-communism?
- 2) What regulations did the various US Administrations from 1977 to 1997 introduce to enforce the arms embargo, and to what extent did they adhere to or change the regulations? Was the adherence or changes linked to their foreign policy objectives with regard to South Africa?

- 3) Was it primarily in a defiant reaction to the implementation and enforcement of the arms embargo by the US that South Africa turned to clandestine means to circumvent the embargo, and in the end, despite the arms embargo, succeeded in the build-up of a world-renowned defense industry?

In short, one can thus say that this research study was aimed at determining the objectives of the US in instituting the arms embargo, whether these objectives were met through the implementation and enforcement of the arms embargo, and whether the South African reaction to the embargo signified the failure of the embargo to meet its objectives.

The institution and implementation of the mandatory arms embargo was discussed in a chronological order of US Administrations during the period 1977-1997, i.e. the Carter, Reagan, Bush and Clinton Administrations. A conclusion on each of these US Administrations' implementation of the mandatory arms embargo was already drawn at the end of each applicable chapter. The purpose of this chapter is to provide a final summary and draw a final conclusion on each of the three questions constituting the problem statement.

## **8.1 FINAL SUMMARY AND CONCLUSION ON PROBLEM STATEMENT 1**

As stated in Chapter 1, the institution of the mandatory arms embargo against South Africa by the US in 1977, should be viewed in the light of concerted efforts in the United Nations for punitive measures to be taken against South Africa. Three interrelated events were especially responsible for these efforts and the subsequent institution of the arms embargo in 1977: the policy of apartheid of the South African Government and the internal unrest that it caused; the military build-up of the South African Government, in spite of the United Nations arms embargo instituted against it in 1963; and the question of independence for South West Africa (Namibia), where South Africa's administration and military presence was regarded as illegal.

Jimmy Carter became president of the United States at a time when the above-mentioned factors had caused severe international and domestic emotions and outcries for steps to be taken against the South African Government. In addition to the abovementioned factors, the political turmoil in South Africa exploded in 1976 with the

Soweto uprising and the resultant violent strikes and riots in the whole of South Africa, which left more than 500 people dead and thousands wounded. Angry human rights activists worldwide demanded serious action against the South African Government from Carter, especially since he had declared himself a fierce supporter of human rights in the build-up to the 1976 US elections. He now had to prove that he was indeed serious about upholding human rights, and that his statements in this regard were not mere rhetoric.

Carter's first ten months in office signaled a hardening in US relations with South Africa. He appointed proponents of human rights and racial equality in top positions in his Administration and ordered a foreign policy review with regard to South Africa, South West Africa (Namibia) and Rhodesia. Furthermore, he and senior members of his Administration made it clear that they had no strategic interest in Southern Africa, did not wish to play any military role in Africa, and that economic interests would play no role in the Administration's South African policy. These statements constituted a significant departure from US policy prior to 1977. In addition, as a Democrat, Carter was very concerned with the national interests of the US. International issues therefore had to centre on the ideals of the American nation, i.e. a commitment to human rights. The message to South Africa was clear: relations between the US and South Africa was bound to deteriorate rapidly if the latter did not start to walk on a road of major domestic reform and a regard for human rights.

The South African Government remained deaf to the signals of a more hard line policy by the US. The South African defense budget for 1977 was increased sharply, amid rumors of a South African nuclear weapons program. When the Carter Administration in July 1977 moved to end all grey-area sales to South Africa that had been permitted during the Nixon and Ford Administrations, the South African Government refused to acknowledge the warning. In August 1977, Soviet allegations of a nuclear test site being built by South Africa in the Kalahari Desert became the catalyst of rapidly deteriorating US-South African relations. Unheard of before in the history of the Cold War, the Soviet Union and the US took a combined stand against South Africa. This should have warned South Africa that its fierce anti-communist stance would not rescue it from punitive action this time, as was the case with past US Governments. The Carter Administration viewed human rights as more important than being anti-communist. Instead, the South African Government answered the warning with increasing defiance

and bitter comments directed at the Carter Administration. The defiance culminated in September 1977 in the death of Black Consciousness leader Steven Biko in police custody, followed by a crackdown on two leading black newspapers, eighteen black and interracial organizations and several prominent individuals.

The defiance of the South African Government left Carter with no choice but to act. The international outcry as a result of the defiance became deafening. Yet, despite fiercely condemning the defiance of the South African Government, Carter refused to impose anything more than a mandatory arms embargo against South Africa, and was even reluctant to denote the political turmoil in that country as a threat to international peace and security under Chapter VII of the United Nations Charter. Carter was only willing to declare that the supply of arms to South Africa was becoming a threat to international peace and security. He nonetheless warned that South Africa could expect further steps if it did not heed the warning constituted by the mandatory arms embargo.

*In the light of the abovementioned summary, one can conclude that the Carter Administration's policy towards South Africa was based on political interests, of which a concern for human rights and human dignity was a significant ingredient. It can be asserted that the defiance of the South African Government collided with the strong human rights stance of the Carter Administration, and finally led to the institution of a mandatory arms embargo against South Africa. Several factors fuelled the fire caused by the collision, e.g. the international and US domestic pressure for action against the South African Government. In retrospect, however, the strong utterances about human rights by the Carter Administration versus its reluctance to impose stronger measures than the arms embargo just doesn't add up. If the Carter Administration was so serious about human rights, why the reluctance to impose stronger measures? The truth is that the mandatory arms embargo actually did not constitute anything new as far as US policy towards South Africa was concerned. On the contrary, the 1963 arms embargo was rather strictly enforced by Carter's predecessors, despite some weakening by the Nixon and Ford Administrations. Thus, although Carter imposed some restrictions regarding grey area items, it was merely a reinstatement of measures lifted by the Nixon and Ford Administrations. One can therefore assert that only the description of the arms embargo changed, i.e. from voluntary in 1963 to mandatory in 1977, and that Carter's actions were merely a case of anti-apartheid rhetoric, disguised under a shadow of nothing more than very limited action. One therefore comes to the conclusion that the*

*limited action was indeed only an effort to appease the Afro-Asian nations and anti-apartheid activists. Also, although the Carter Administration early in 1977 declared that South Africa's fierce anti-communism would have no influence on its policy towards South Africa, the limited action indicated that it was perhaps still a matter that the Carter Administration took into consideration behind the scenes. Furthermore, the high priority that the Carter Administration put on bringing peace, democracy and independence to Rhodesia can possibly be regarded as a factor limiting its action against South Africa. On the other hand, one should not disregard the fact that the mandatory arms embargo was imposed under Chapter VII of the United Nations Charter, which made it a very important symbolic act of significant importance at that point in history. This indicated a hardening in US foreign policy with regard to South Africa.*

## **8.2 FINAL SUMMARY AND CONCLUSION ON PROBLEM STATEMENT 2**

Although many critics regarded the Carter Administration's implementation of a mandatory arms embargo and the resultant United Nations Resolution 418 (1977) as disappointingly limited, some credit is due to that Administration for its efforts to strengthen and implement the embargo as effectively as possible. Unlike other members of the United Nations, when the mandatory arms embargo was instituted, the US already had extensive laws and regulations to govern the trade in arms and arms technology in place. The majority of these laws and regulations were embodied in the US Munitions List, and provided a legal basis for the implementation of the arms embargo. Furthermore, the term 'arms and related equipment' in United Nations Resolution 418, which created confusion amongst other countries, was effectively defined in the US as including all items and related technical data on the Munitions List, as well as other items with a military application that were not listed on the Munitions List. Technical data and defense articles and services sold on a government-to-government basis under the US foreign military sales program, were also included in the definition of 'arms and related equipment'.

In February 1978, the Carter Administration strengthened the arms embargo by announcing a ban on the export of any US-origin item or technical data to the South African military and police. These regulations went beyond the requirements of Resolution 418. Therefore, one can assert that it signified a tough line taken by the Carter Administration towards South Africa. It seemed that the initial anti-apartheid



rhetoric was now being followed up with some practical action, perhaps in an effort to silence the Carter Administration's critics. Carter had promised stiff regulations against South Africa and now acted by introducing comprehensive arms embargo measures. This could be viewed as an indication that Carter was genuinely concerned about human rights violations in South Africa. On the other hand, comprehensive measures can be very difficult to enforce. Therefore, despite the Carter Administration's best intentions to enforce those measures, many problems surfaced that actually disimplemented the embargo to a large extent.

Some of the problems encountered by the Carter Administration in its implementation of the arms embargo could be ascribed to loopholes in the regulations. Yet another problem was the illegal export of arms and technology to South Africa by US firms. The case of Space Research Corporation (SRC) was by far the most serious. The Carter Administration's handling of these problems is not commendable. On the one hand, the Carter Administration continually gave assurances that each sale to South Africa was considered carefully and individually before being allowed or denied. Contradictory to this, the Carter Administration on the other hand was reluctant to end all nuclear cooperation with South Africa, despite incidents and rumors that strongly pointed to South Africa having a nuclear weapons program. In addition, arms embargo violation offenders, when indeed caught, did not receive severe punishment. This raised many questions on how serious the Carter Administration was taking the implementation of the arms embargo. The truth is, the Carter Administration simply did not have effective machinery to implement and enforce the arms embargo regulations it had set down. In addition, the Carter Administration did not fully reckon with the South African determination to obtain whatever it needed through whatever way necessary.

In addition to the abovementioned problems, the defiant South African Government made the implementation of the arms embargo even more difficult by signing a cooperation agreement with Israel. Through this agreement, the South African Government obtained many US-origin military items or technology. This placed the Carter Administration in a foreign policy dilemma. On the one hand, it had pledged its unequivocal support to Israel. This support would be difficult to withdraw abruptly. On the other hand, Israel had links with South Africa, against which an arms embargo was in place. The dilemma led to many accusations that the Carter Administration complied with the transfer of military items to South Africa, by simply turning a blind eye and

doing nothing constructive to block the flow of military items from Israel to South Africa.

*In the light of the abovementioned summary, the final conclusion on the Carter Administration's implementation of the arms embargo would be that although it had the best intentions of enforcing the arms embargo on South Africa, it was simply not able to fully implement the arms embargo regulations that it had set down. Furthermore, the Carter Administration's promise of unequivocal support to Israel weighed heavier than the fact that Israel was violating the US arms embargo against South Africa. If the Carter Administration was really committed to enforcing the arms embargo, then it would have rebuked Israel more strongly or even implemented punitive measures against it. The fact that this did not happen indicates that the Carter Administration's implementation of the arms embargo was directly linked to its foreign policy objectives. It slackened the leash on South Africa rather than losing its alliance with Israel.*

Carter was defeated in the 1980 US elections by Republican Ronald Reagan. When Reagan became the US President, it raised South African expectations of a less rigid policy than that of the Carter Administration. The South African expectations were not in vain. During the first term of the Reagan Administration, i.e. from 1981 to 1984, South Africa once again became important as a strategic anti-communist ally. Many reasons led to this, e.g. the foreign policy crises' that had developed in Iran and Afghanistan. These crises' threatened the US' interests in the Middle East and Southwest-Asia, the stability and territorial integrity of the Third World and non-aligned countries, and the global balance of power between the US and the Soviet Union. Once again, as was the case with several US Administrations before Carter, the threatening of US international interests proved to be an important point in the framing of US policy toward South Africa. Towards the end of the 1980s, Reagan would be instrumental in events leading to the fall of the Soviet Union. However, before that could happen, the spread of communism in Africa had to be stopped. The South African Government was fiercely anti-communist, and thus won the support of many in the Reagan camp. Indeed, Reagan made no secret of the importance that he ascribed to South Africa being anti-communist. Shortly after he took office as US President, he told reporters that his Administration would place heavy emphasis on countering the spread of communism, and less emphasis on human rights.

The emphasis on countering the spread of communism once more raised the question of the strategic importance of South Africa being at the southern point of Africa – another positive point for support in the Reagan camp. However, the mandatory arms embargo kept the Reagan Administration from providing open support to South Africa. The embargo could not simply be lifted. Such a step would be extremely miscalculating and could result in severe international as well as domestic repercussions for the Reagan Administration. Thus, the latter faced the following foreign policy dilemma: how to support the South African Government in order to counter the spread of communism while being bound by a mandatory arms embargo prohibiting military support to that country.

The South African policy dilemma meant that the Reagan Administration had to act slowly and with extreme caution in its support for that country. Initially, Reagan and many of his senior officials often did not hesitate to cautiously voice the Administration's support for South Africa. However, they usually made sure that such statements were followed by a reiteration of the US' abhorrence of apartheid. The Reagan Administration furthermore adopted a policy called constructive engagement. They believed it would position the US as a broker between the various opposing parties in the Southern African region. Constructive engagement ruled out further embargoes or sanctions against South Africa.

As far as the arms embargo was concerned, the Reagan Administration adhered to its decision to support South Africa through slow and cautious steps. Step by step, the arms embargo regulations set by the Carter Administration were made less rigid. Several relaxations were announced in this manner, always with the motivation that the regulations set by the Carter Administration in 1978 unnecessarily included items that could have been exported to South Africa without contravening US policy. Indeed, the US Department of State at one instance boldly declared that the new regulations represented a significant but politically less sensitive first phase in what was anticipated to be a consistent process of eliminating trade restraints with South Africa. The South African military establishment interpreted the relaxations as indicating that many imports that were previously excluded would now be allowed.

The new regulations set by the Reagan Administration paved the way for increased grey area exports to the South African military establishment and even increased violations of

the arms embargo. Nonetheless, surprisingly few incidents in this regard occurred, except in the field of computers and computer-related software and equipment. South African firms or institutions involved in military research and development were still excluded from receiving such items by the arms embargo, but a number of instances occurred where sensitive computer-related equipment landed up in the hands of the South African military establishment. The question is – did the Reagan Administration know about the end users of sensitive computer equipment in South Africa, and violated the embargo willfully by concurring with the export thereof? It was not always clear whether this was the case.

In November 1984, Reagan was re-elected as US President after a landslide victory over the Democratic Party candidate. He was confident of continuing upon the path of cautious support to South Africa, including the relaxation of arms embargo regulations. However, due to extremely violent incidents in South Africa and crackdowns by the South African Government, he was soon forced to retreat. The relaxation of many arms embargo regulations by the Reagan Administration and the situation in South Africa had not gone unnoticed by the US anti-apartheid movement. This movement had built up strength during the early 1980's in all sectors of US life, and became a force to be reckoned with. It now demanded comprehensive sanctions against South Africa. According to anti-apartheid activists, the arms embargo was a joke because the South African Government was at that point in time militarily the strongest it had ever been. Lobbying for comprehensive economic sanctions against South Africa gained momentum by the day. Even 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 could not satisfy the call for sanctions. The lobbying for sanctions snowballed in the US and although the Reagan Administration remained opposed to any further sanctions, boycotts or embargoes against South Africa, by September 1985 it realized that it would no longer be able to fend off the institution of economic sanctions against South Africa by the US Congress. To defend South Africa against the US Congress, Reagan in September 1985 announced limited economic sanctions against that country through an Executive Order. The Executive Order contained a number of regulations applicable to the arms embargo, mainly once more extending some of the regulations that were relaxed during the Reagan Administration's first term.

The Reagan Administration succeeded in fighting off a crisis in the US Congress, but this would only have a short-term effect. In May 1986, South Africa raided enemy targets in three neighboring countries, thereby eliciting a new spade of protest in the US. In the aftermath of the raids, it became clear that many in the US Congress would settle for nothing less than comprehensive sanctions against South Africa. In October 1986 Reagan 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. The CAAA 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. Reagan was now bound to adhere to the measures instituted by the US Congress, although he maintained a sense of goodwill towards South Africa for the rest of his term. His Administration implemented the arms embargo strictly during the remainder of its second term – frankly, it had no choice! It was being carefully monitored by the US Congress. Very few violations occurred during the remainder of Reagan's second term. In the few cases that were indeed revealed, sentencing was strict. On the other hand, based on Reagan's feelings of support to South Africa during the whole of his Administration, one cannot help but wonder whether there had been violations of the arms embargo that some officials in his Administration knew about and secretly approved, to the benefit of South Africa.

*Based on the above-mentioned summary, one can conclude that the Reagan Administration ushered in yet another new approach to South Africa, which directly influenced the US implementation of the mandatory arms embargo. Reagan's policy towards South Africa was linked to his anti-communist foreign policy objectives, which weighed heavier than the strict implementation of the arms embargo. However, his support of South Africa, embodied in the relaxation of quite a number of arms embargo regulations, was only tolerated up to a certain point. The opponents of apartheid would have no more of his actions, and he was forced to change his foreign policy objectives and therefore also his tactics concerning South Africa. This had a direct influence on the implementation of the arms embargo, which was significantly strengthened during the second term of the Reagan Administration, albeit with Reagan's disapproval.*

George Bush, Senior, took office as US President in January 1989, after the Republican Party in 1988 won their third election in a row. Bush inherited the legacy of the showdown between Reagan and the US Congress, the resultant CAAA of 1986 and the strict implementation of the arms embargo.

During his Presidency, Bush witnessed the crumbling of the wall of resistance of white minority rule in South Africa. However, the majority of the credit for this did not belong to his Administration. The pressure from the US in the form of the arms embargo, economic sanctions and public renouncement of apartheid should not be underestimated as a factor leading to that moment in history. Just as important however was international occurrences like the demise of Soviet communism, the independence of South West Africa (Namibia) after many years of administration by South Africa, the continuing Israeli/Palestinian conflict in the Middle East, and the gross human rights violations and procurement of weapons of mass destruction by Saddam Hussein of Iraq. It was as if the arms embargo against South Africa dwindled in the shadow of the Bush Administration's attention to Iraq, which eventually led to the Gulf War in 1991. Furthermore, the Bush Administration wanted to make its mark as the Administration that ended the proliferation of weapons of mass destruction, e.g. nuclear weapons and ballistic missiles. All these occurrences kept the Bush Administration too busy to give focused attention to South Africa.

Bush, being vice-President during the Reagan Administration, was expected to continue with the policies of the Reagan Administration. However, the Bush Administration's shifting of its focus away from South Africa could perhaps be indicative of the fact that he did not always fully agreed with Reagan's policy objectives vis-à-vis South Africa. Bush, unlike Reagan, was happy to contend with the mandatory arms embargo and the legal requirements of the CAAA of 1986, which stipulated that South Africa had to adhere to five specific prescriptions before sanctions could be lifted. This was despite the fact that the Bush Administration on various occasions stated that it was increasingly optimistic about the political transformation taking place in South Africa. However, when these public statements were expected to be translated into practical encouragement from the Bush Administration, it was quick to say that F.W. de Klerk had to be given time to implement his reforms, and in the meantime, the US arms embargo and economic sanctions against South Africa would remain.

The Bush Administration's happy adherence to the arms embargo and the CAAA of 1986 was especially evident from the way in which it implemented the arms embargo. Many cases of illegal procurement of US military technology and items, which had been concealed for years, were revealed during the Bush Administration. This speaks of a commitment and dedication of Administration officials to implement the arms embargo strictly. Therefore, Bush Administration officials were quite baffled about the enormity and concealment during the entire Reagan Administration of one specific case that was revealed, i.e. the International Signal Control case. The revelation of the firm's smuggling activities led to unprecedented US action: indictments against three South African firms and seven South African citizens, in addition to the US compliants in the smuggling. In all the revealed cases since 1977, when the mandatory arms embargo was instituted, it was only the US firms and individuals that had been convicted. The ISC-Armcor case thus tellingly represented the commitment of Bush Administration officials to the implementation of the arms embargo, and also symbolized a watershed in the judicial prosecution by the US of international offenders of its laws.

Also telling of the Bush Administration's dedicated implementation of the arms embargo, was the fact that the guilty parties of arms embargo violation cases did not get away with relatively light sentences, as was the case during the Carter and Reagan Administrations. Furthermore, Bush did not hesitate to slap Armcor with even more sanctions after it became known that Armcor had collaborated with Israel in the development of ballistic missiles and that much US equipment were obtained for this program, in violation of the US Arms Export Act. The fact that sanctions were waived for Israel, speaks for itself about the commitment of the Bush Administration to the implementation of the arms embargo against South Africa. Although the reforms taking place in South Africa should have convinced the Bush Administration that there was no turning back in that country, it chose to adhere to the law books. On the other hand, as far as Israel was concerned the US law books was waived because of a fear that it might jeopardize the Middle East peace process. Ironically, South Africa was also involved in a peace process, with much more far-reaching consequences than what was happening in Israel. The difference perhaps was that a settlement in the Middle East peace talks would bear a clear US involvement stamp, whereas with South Africa, the Bush Administration could not say the same. After many years of embargoes and sanctions, the change in South Africa came from within. Also, Israel declared that it



would adhere to the MTCR, which, as said, was a showcase of US influence. South Africa refused compliance, and was therefore punished.

*In the light of the abovementioned summary, it is clear that the Bush Administration's foreign policy objectives, as with his predecessors, were linked to the implementation of the arms embargo against South Africa. South Africa was low on the priority list of the Bush Administration's foreign policy objectives. Indeed, the fact that the arms embargo was strictly enforced by the Bush Administration almost leads one to make the conclusion that it did not want anything to draw the attention away from reaching its bigger goals, i.e. the Gulf War and fame as the Administration that ended the proliferation of weapons of mass destruction. When the attention was indeed drawn away from these goals by the magnitude of the ISC case, the Bush Administration quickly had to take initiative to show that it was also in control of that situation. The result was the unprecedented indictments against the South African firms Armscor, Kentron, Fuchs Electronics and seven individuals. In the opinion of the researcher, the Bush Administration possibly wanted to use the case as an example to the world of what would happen if any country, firm or individual would dare to go against it.*

Bush lost to Democrat Bill Clinton in the US elections in late 1992. The Clinton Administration witnessed many firsts in South Africa. When Clinton took office as US President, the political transformation in South Africa was already far advanced. Negotiations were underway between the South African Government and the ANC. The negotiations happened alongside remarkable transparency by the South African Government regarding military issues. Within three months of becoming President, Clinton witnessed two previously unprecedented acknowledgements by the South African Government: first, South Africa had an advanced ballistic missile program; and second, the country had an active nuclear weapons program between 1978 and 1989, thus within the time span of the mandatory arms embargo.

The voluntary disclosures promoted South Africa's image in the world tremendously, especially since it became the first country to destroy its nuclear arsenal without international pressure. However, the Clinton Administration kept on doubting that South Africa had come completely clean on its nuclear weapons activities, as was evidenced by spying activities and South Africa's retainment on a highly sensitive US watch list. As with the Bush Administration, the Clinton Administration pursued its policy towards

South Africa closely according to the book. One gets the impression that the Clinton Administration did not fully regard the political transformation in South Africa as being the real thing, even after the ANC won the first elections ever in South Africa based on the principle of 'one man, one vote', and Nelson Mandela became the first black South African President. On the one hand, in the light of South Africa's turbulent history, one can understand the cautiousness of the Clinton Administration. On the other hand, South Africa had a brand new political establishment, which needed the trust of superpowers like the US. One sign of such trust would have been the unreserved lifting of the US arms embargo against South Africa. However, an irritating thorn in the relations between the US and South Africa still remained - the unresolved Armscor case. Mandela asked Clinton to intervene to settle the case, but the latter declined because it would have meant that he was intervening with US judicial processes, which, in his own eyes, would have done him immense harm among the US voting body. This was something Clinton wanted to avoid, because he was aiming at being re-elected for a second term. Thus, despite promises to Mandela that he would do what he could to resolve the Armscor case, he left the case to run its course. This created much tension between the two governments, and although many other positive relationships were forged, it was always in the shadow of the Armscor case and the remaining arms embargo.

The Armscor case also stood in the way of the complete lifting of the arms embargo. This in turn caused a clash of interests. The US Department of Defense was much interested in South African-produced military systems and was eager to trade, but they were bound by the denial order against Armscor, its affiliates and its offshoot companies. This led to much frustration in both countries, especially after South African invited tenders for the upgrading of its defense force and the US was excluded because of the denial order. But the Clinton Administration remained stiff-necked, arguing that they could not yet fully trust South Africa not to sell arms to its enemies. Even after Mandela sorted out Armscor's law-violating image and imposed strict controls on the company, the Clinton Administration remained doubtful. For many observers, this implied distrust in the South African Government, which fuelled tensions even more. The Armscor case was resolved in 1997 after much political tug-of-war efforts, but the arms embargo was only lifted in 1998, although not unreservedly. Some clauses remained that kept Armscor and other South African arms production companies from

freely participating in the open military market until 2004, when these clauses were lifted unreservedly.

*In conclusion, one can assert that the Clinton Administration was caught between two fires in its policy towards South Africa: trust in the new South African Government vs. his own domestic image. The latter seemed to weigh heavier and therefore Clinton stepped back from the responsibility to solve the Armscor case. He transferred the responsibility to his Vice-President, Al Gore, while himself maintaining observer status. The Armscor case dominated the Clinton Administration's implementation of the arms embargo, and effectively blocked the complete lifting of the US arms embargo for more than three years after the United Nations lifted its mandatory arms embargo in May 1994. Yet again, as was the case with the previous Administrations of Carter, Reagan and Bush, the implementation of the embargo was linked to the objectives of the Government of the day. Even after an acceptable deal was struck between Gore and South African Vice-president Thabo Mbeki, the Clinton Administration dragged its feet for another year before finally lifting the US arms embargo against South Africa. It is almost as if the US wanted the world to know that 20 years before, it had been the first to impose a mandatory arms embargo against South Africa; thus it would also be the last to lift it. The lifting of the embargo completed a 20-year circle.*

In a **final conclusion** to problem statement 2, one can draw the following similarities between the various US Administrations that had to implement the 1977 mandatory arms embargo: The implementation of the embargo was linked to external objectives of the Government of the day; in the case of Carter, Reagan and Bush it was linked to their foreign policy objectives, and in the case of Clinton, to his domestic image. Thus, the strengthening and/or weakening of the arms embargo regulations occurred according to the objectives that the Government of the day wanted to achieve. In retrospect however, the implementation of the arms embargo was generally very effective, especially when one considers the enormous amount of controlling that needed to be done. The researcher is of the opinion that although some exports of military-related equipment were deliberately allowed by each of the US Administrations, overall it was impossible to check each and every item being exported to South Africa for any possible military application. The researcher is also of the opinion that the violation cases that were revealed are in the minority – without a doubt there are still many that have never been revealed.

### 8.3 FINAL SUMMARY AND CONCLUSION ON PROBLEM STATEMENT 3

When the research study is looked at in retrospect, one can make the conclusion that the US was perhaps not prepared for the defiance of the white South African minority Government. The institution of the mandatory arms embargo against South Africa in November 1977 did not catch the South African Government unaware. It had expected that such an embargo would be instituted sooner or later. In March 1977 already, the South African Government announced a budget marked by sharp increases in outlays for defense and the police. Shortly afterwards, South African Prime Minister Vorster declared that the position of whites in South Africa was not negotiable. He commissioned the development of a 'total strategy' to stave off pressures for majority rule, which in effect meant that South Africa was put on a war footing. For this, Vorster needed weapons.

Vorster's successor, P.W. Botha's initial stance that South Africa had a strong enough arms industry to surmount an international embargo in a way that will astonish those seeking an end to white rule in South Africa dominated the South African Government's approach to the embargo until Botha was controversially succeeded as Prime Minister by F.W. de Klerk in 1989. After the institution of the mandatory arms embargo, the South African Government answered all efforts to implement or strengthen the embargo with renewed defiance and efforts to circumvent it. If it was countered on one terrain, it simply stood up, shook off the dust and tried another avenue. As a result, a sophisticated, intricate arms embargo violation strategy developed.

Three examples especially bear testimony to just how good the South African Government had become in violating the arms embargo and building up a world-renowned arms industry. First is the Space Research Corporation (SRC) case, through which Armscor clandestinely obtained the blueprints for an advanced 155mm artillery system, as well as shells, gun barrels, technicians and testing equipment related to the system. Armscor further developed the system into the world-renowned G5 and later the G6 artillery systems, which it then exported clandestinely in violation of the 1984 embargo on the import of South African military-related equipment. The second example is the International Signal and Control (ISC) case, through which Armscor obtained advanced ballistic missile components for its ballistic missile and space rocket program. This program was very far advanced when Armscor decided to end it during the

negotiations for a democratic South Africa and after pressure from the Clinton Administration in early 1993. It was however also the ISC case that landed Armscor in hot water in the US after the violations were discovered. Nonetheless, the magnitude of the case and the fact that it remained secret during the entire Reagan Administration serve as evidence for the commitment of the South African arms industry to excel in spite of the arms embargo. The third example is the South African nuclear weapons program. The ability of the South African Government to keep its nuclear weapons program secret in the midst of the arms embargo led to much disbelief in the US and even among South Africans. The US had its suspicions about a South African nuclear weapons program, but could never prove it.

The arms embargo was however not entirely ineffective. It did effectively withhold many sophisticated military equipment from South Africa. This started to become a crises for South Africa by the beginning of the 1990s. The country had many old equipment that needed urgent replacement. Although it was self-sufficient in small arms and successful in the development of its own fighter-bomber aircraft called the Cheetah, an attack helicopter called the Rooivalk, a range of infantry vehicles, and the G5 and G6 artillery systems, the cost of development simply became too much to bear. Furthermore, spares and components that could not be produced locally had to be imported clandestinely, which made the cost thereof much higher than on the open market. Lastly, as evident from the discussions of the implementation of the arms embargo during the Reagan Administration's second term and the Bush Administration, the web around the South African military establishment's clandestine activities was being drawn closer.

In final conclusion on problem statement 3, the researcher is of the opinion that the arms embargo indeed acted as main stimulant for the development of the South African arms industry. The South African minority Government of the day wanted to maintain its position of power in South Africa as well as Southern Africa. For that it needed weapons, thus the arms industry developed out of a determination to remain in power. When the motives for power however started to disintegrate with the independence of South West Africa (Namibia), the fall of Soviet communism, and the negotiations for a democratic South Africa under majority rule, the need to clandestinely obtain or develop weapons also evaporated. This in turn resulted in a desire to come clean on certain elements of the South African military industry and to start anew. In this regard, South

Africa became the first nation to fully develop a nuclear arsenal and then voluntarily dismantle it. That led to the country emerging as a world leader among non-aligned nations in promoting nuclear non-proliferation and disarmament. Moreover, in April 1995, only two years after the revelation of the South African nuclear weapons program, South African diplomacy played a significant role in United Nations-sponsored talks that forged a consensus among member nations of the Nuclear Non-proliferation Treaty to extend the agreement indefinitely.

A new era in South Africa had truly begun.

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**CHAPTER VII OF THE UNITED NATIONS CHARTER: ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION**

**Article 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

**Article 40**

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

**Article 41**

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

**Article 42**

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

**Article 43**

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security

Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

#### **Article 44**

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

#### **Article 45**

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

#### **Article 46**

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

#### **Article 47**

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.
2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.
3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.
4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

#### **Article 48**

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.



2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

**Article 49**

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

**Article 50**

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

**Article 51**

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

(*Charter of the United Nations*, 26 June 1945, San Francisco.  
<http://www.un.org/aboutun/charter/>)

**Resolution 418 (1977) of 4 November 1977 (mandatory)**

*The Security Council,*

Recalling its resolution 392 (1976) of 19 June 1976, strongly condemning the South African Government for its resort to massive violence against and killings of the African people, including schoolchildren and students and others opposing racial discrimination, and calling upon that Government urgently to end violence against the African people and to take urgent steps to eliminate *apartheid* and racial discrimination,

*Recognizing* that the military build-up by South Africa and its persistent acts of aggression against the neighboring States seriously disturb the security of those states,

*Further recognizing* that the existing arms embargo must be strengthened and universally applied, without any reservations or qualifications whatsoever, in order to prevent a further aggravation of the grave situation in South Africa,

*Taking note* of the Lagos Declaration for Action against *Apartheid*,

*Gravely concerned* that South Africa is at the threshold of producing nuclear weapons,

*Strongly condemning* the South African Government for its acts of repression, its defiant continuance of the system of *apartheid* and its attacks against neighboring independent States,

*Considering* that the policies and acts of the South African Government are fraught with danger to international peace and security,

*Recalling* its resolution 181 (1963) of 7 August 1963 and other resolutions concerning a voluntary arms embargo against South Africa,

*Convinced* that a mandatory arms embargo needs to be universally applied against South Africa in the first instance,

*Acting* therefore under Chapter VII of the Charter of the United Nations,

1. *Determines*, having regard to the policies and acts of the South African Government, that the acquisition by South Africa of arms and related matériel constitutes a threat to the maintenance of international peace and security;
2. *Decides* that all States shall cease forthwith any provision to South Africa of arms and related matériel of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment; and spare parts for the aforementioned, and shall cease as well the provision of all types

- of equipment and supplies and grants of licensing arrangements for the manufacture and development of nuclear weapons;
3. *Calls upon* all States to review, having regard to the objectives of the present resolution, all existing contractual arrangements with and licenses for granted to South Africa relating to the manufacture and maintenance of arms, ammunition of all types and military equipment and vehicles, with a view to terminating them;
  4. Further decides that all States shall refrain from any co-operation with South Africa in the manufacture and development of nuclear weapons;
  5. *Calls upon* all States, including States non-members of the United Nations, to act strictly in accordance with the provisions of the present resolution;
  6. *Requests* the Secretary-General to report to the Security Council on the progress of the implementation of the present resolution, the first report to be submitted not later than 1 May 1978;
  7. *Decides* to keep this item on the agenda for further action, as appropriate, in the light of developments.

*Adopted unanimously at the 2046<sup>th</sup> meeting*

(United Nations Security Council, **Resolution 418 (1977)**, 4 November 1977, [www.un.gov](http://www.un.gov)).

**Resolution 558 (1984) of 13 December 1984 (voluntary)**

*The Security Council,*

*Recalling* its resolution 418 (1977) of 4 November 1977, in which it decided upon a mandatory arms embargo against South Africa,

*Recalling* its Resolution 421 (1977) of 9 December 1977, by which it entrusted a Committee consisting of all its members with the task of, among other things, studying ways and means by which the mandatory arms embargo could be made more effective against South Africa and to make recommendations to the Council,

*Taking note* of the Committee's report to the Security Council contained in document S/14179 of 19 September 1980,

*Recognizing* that South Africa's intensified efforts to build up its capacity to manufacture armaments undermines the effectiveness of the mandatory arms embargo against South Africa,

*Considering* that no State should contribute to South Africa's arms production capability by purchasing arms manufactured in South Africa,

1. *Reaffirms* its resolution 418 (1977) and stresses the continuing need for the strict application of all its provisions;
2. *Requests* all States to refrain from importing arms, ammunition of all types and military vehicles produced in South Africa,
3. *Requests* all States, including States non-members of the United Nations to act strictly in accordance with the provisions of the present resolution;
4. *Requests* the Secretary-General to report to the Security Council Committee established by resolution 421 (1977) concerning the question of South Africa on the progress of the implementation of the present resolution before 31 December 1985.

*Adopted unanimously at the 2564<sup>th</sup> meeting.*

(United Nations Security Council, **Resolution 558 (1984)**, 4 November 1984, [www.un.gov](http://www.un.gov)).

**Resolution 591 (1986) of 28 November 1986**

*The Security Council,*

*Recalling* its resolution 418 (1977), in which it decided upon a mandatory arms embargo against South Africa,

*Recalling* its resolution 421 (1977) by which it entrusted a committee consisting of all the members of the Council with the task of, among other things, studying ways and means by which the mandatory arms embargo could be made more effective against South Africa and to make recommendations to the Council,

*Recalling* its resolution 473 (1980) on the question of South Africa,

*Recalling* the 1980 report of the Security Council Committee established by resolution 421 (1977) concerning the question of South Africa on ways and means of making the mandatory arms embargo against South Africa more effective,

*Recalling* resolution 558 (1984), in which all States were requested to refrain from importing arms, ammunition of all types and military vehicles produced in South Africa,

*Recalling further* resolution 473 (1980), by which the Security Council requested the Security Council Committee established by resolution 421 (1977) to redouble its efforts to secure full implementation of the arms embargo against South Africa by recommending measures to close all loopholes in the arms embargo, reinforce it and make it more comprehensive,

*Reaffirming* its recognition of the legitimacy of the struggle of the South African people for the elimination of *apartheid* and the establishment of a democratic society in accordance with their inalienable human and political rights as set forth in the Charter of the United Nations and the Universal Declaration of Human Rights,

*Strongly condemning* the racist regime of South Africa for further aggravating the situation and its massive repression against all opponents of *apartheid*, for the killing of peaceful demonstrators and political detainees, and for its defiance of General Assembly and Security Council resolutions, in particular Security Council resolution 417 (1977),

*Reaffirming* its resolution 418 (1977) and stressing the continuing need for strict application of all its provisions,

*Mindful* of its responsibilities under the Charter for the maintenance of international peace and security,

1. *Urges* States to take steps to ensure that components of embargoed items do not reach the South African military establishment and police through third countries;
2. *Calls upon* States to prohibit the export of spare parts for embargoed aircraft and other military equipment belonging to South Africa and any official involvement in the maintenance and service of such equipment;
3. *Urges* all States to prohibit the export to South Africa of items which they have reason to believe are destined for the military and/or police forces of South Africa, have a military capacity and are intended for military purposes, namely, aircraft, aircraft engines, aircraft parts, electronic and telecommunication equipment, computers and four-wheel drive vehicles;
4. *Requests* of all States that henceforth the term “arms and related matériel” referred to in resolution 418 (1977) shall include, in addition to all nuclear, strategic and conventional weapons, all military, paramilitary police vehicles and equipment, as well as weapons and ammunitions, spare parts and supplies for the aforementioned and the sale or transfer thereof;
5. *Requests* all States to implement strictly its resolution 418 (1977) and to refrain from any co-operation in the nuclear field with South Africa which will contribute to the manufacture and development by South Africa of nuclear weapons or nuclear explosive devices;
6. *Renews* its request to all States to refrain from importing arms, ammunition of all types and military vehicles produced in South Africa;
7. *Calls upon* all States to prohibit the import or entry of all South African armaments for display in international fairs and exhibitions under their jurisdiction;
8. *Further calls upon* States which have not done so to put an end to all exchanges as well as to visits and exchanges of visits by government personnel, when such visits and exchanges maintain or increase South Africa’s military or police capabilities;
9. *Further calls upon* all States to refrain from participating in any activities in South Africa which they have reason to believe might contribute to its military capability;
10. *Requests* all States to ensure that their national legislation or comparable policy directives guarantee that specific provisions to implement resolution 418 (1977) include penalties to deter violations;

11. *Further requests* all States to adopt measures to investigate violations, prevent future circumventions and strengthen their machinery for the implementation of resolution 418 (1977) with a view to the effective monitoring and verification of transfers of arms and other equipment in violation of the arms embargo;
12. *Further requests* all States, including States non-members of the United Nations, to act in accordance with the provisions of the present resolution;
13. *Further requests* the Security Council Committee established by Resolution 421 (1977) concerning the question of South Africa, in pursuance of resolution 418 (1977), to continue its efforts to secure full implementation of the arms embargo against South Africa in order to make it more effective;
14. *Further requests* the Secretary-General to report to the Security Council on the progress of the implementation of the present resolution, the first report to be submitted as soon as possible but in any event no later than 30 June 1987;
15. *Decides* to remain seized of the matter.

*Adopted by consensus at the 2723<sup>rd</sup> meeting.*

(United Nations Security Council. **Resolution 591 (1986)**, 28 November 1986.  
[www.un.org](http://www.un.org)).



## ESSENTIALS OF THE ARMSCOR COMPLIANCE PROGRAMME

### Background

The compliance procedures are described in the Armscor Compliance Manual, consisting of two volumes, document numbers A-MAN-0196-VOL I and A-MAN-0196-VOL II. These documents are available on the Arms Control Compliance Intranet Website. All employees involved in the procurement, acquisition, acceptance, marketing, exhibition, repair and shipping of defence articles are required to follow these procedures.

### Objective of the Compliance Programme

The objective of the Compliance Programme is to prevent violations of any export vision of the US Arms Control Export Act (AECA) or of any regulation contained in the International Traffic in Arms Regulations (ITAR), or of any order, license or other authorization issued under the AECA.

The ITAR contains the United States Munitions List, which is a list of controlled defence articles, services and technical data. The ITAR is also available on the Arms Control Compliance Intranet Website.

### Principles of the Compliance Programme

- The prevention of unauthorised transfers/deliveries of US origin defence articles, technical data and services to Armscor.
- Controlling US origin defence articles, technical data and services while in Armscor's possession.
- Ensuring that all transfers of US origin defence articles, technical data and services to third parties are in accordance with the necessary authorisation by the US Department of State, including non-transfer and use certificates that may be required.
- Preventing diversion to proscribed countries or debarred persons and organisations.

### Reasons for Armscor's adherence to the Compliance Programme

In terms of its Compliance Policy Armscor as a responsible organisation performs all its acquisition, procurement, marketing, sales and shipping operations in accordance with the provisions of relevant South African legislation as well as the defence export requirements of supplier countries.

The Compliance Programme which had been established in Armscor is a prerequisite for the granting of US export licenses for the transfer of US origin defence articles, technical data and services to Armscor.

For Armscor to procure defence materiel cost effectively for the SANDF and other Government Departments, it is important to have access to US technology and equipment.

### **Requirements of the Compliance Programme**

The compliance procedures prescribe actions at certain steps of Armscor's normal business procedures. The responsibilities are clearly indicated in the Compliance Manual.

#### ***Placing of Orders***

Armscor orders contain specific contractual conditions that place the responsibility on suppliers and contractors to identify and inform Armscor whenever US origin defence articles, technical data and/or services form part of deliverables.

The Programme Manager is also responsible for progressively identifying US origin defence articles, technical data and/or services during the acquisition phases of programmes. Authorisation Committees have the responsibility to ensure that all these contractual conditions are included in all RFI's, RFP's and orders.

#### **Keeping of records**

Records pertaining to compliance procedures must be kept as prescribed by the Compliance Manual for at least five years. As these records will serve as proof of our conformance to the compliance agreement, they must be readily available for verification and audit purposes.

#### **Acceptance and Labelling**

The Programme Manager and his Quality Representative are responsible for:

- Identifying all US origin defence articles and the identification and labelling of technical data received by Armscor;
- Ensuring that the US items identified are in accordance with the statement supplied by the supplier;
- Following up any discrepancies with the supplier and/or the United States Office of Defence Trade Controls (DTC);
- Providing Armscor's Compliance Office with the necessary information on all US origin defence items transferred to and from Armscor.

#### **Transfers to Clients or Contractors**

The Programme Manager is responsible for informing the SANDF, other Government Departments or contractors, as the case may be, that equipment to be transferred contains US origin defence items. Armscor's contractors have the responsibility to ensure that US origin defence items are always safe and secure.

#### ***Note:***

When the transfer of US technical data to Armscor is authorised, it is on the understanding that such data will be made available to South African citizens only. If an Armscor employee hold citizenship of another country and is allowed access to the technical data, the US interprets this as an unauthorised export of data to that foreign country, unless specific approval has been obtained from DTC.

### **Marketing**

SANDF equipment containing US defence articles may not be exhibited or marketed without the authorisation of DTC. The Marketing Manager can either contact the original supplier of the US origin defence articles who will then approach DTC for the necessary approval, or can request the Compliance Office to approach DTC via the South African Embassy.

When Armscor markets equipment on behalf of the South African industry, the Marketing Manager must ensure that the industry has the necessary approval from DTC to market the US origin defence articles contained in the equipment.

### **Stock Sales**

Wherever Armscor is involved in the sale of redundant SANDF stock, the Marketing Manager is responsible for identification of all US origin defence materiel and to ensure that the necessary written DTC authorisation is obtained before transfer of ownership can take place.

US origin defence articles and technical data may not be marketed or transferred to proscribed countries or persons debarred by the US. The lists of proscribed countries and debarred persons are available from the Compliance Office. The Marketing Manager must always be aware of high-risk sales. Indicators of high-risk sales are contained in the Compliance Manual.

### **Temporary Export to US for Repairs**

US origin materiel will sometimes need servicing or repairs. In such cases the materiel may have to be re-exported to the US. We are obliged to identify all US origin defence materiel and take steps to ensure that the necessary import/export approvals have been obtained. Where upgrades or enhancements to US origin defence materiel are planned, this may also require DRC authorisation if US technology or US companies are involved.

### **Commodity Jurisdiction**

If there is any doubt whether an article, service or technical data that is to be transferred to Armscor or retransferred to a third party, is covered by the US Munitions List, find out! But remember, always play it by the rules as prescribed in the Compliance Manual.

### **Voluntary Disclosure**

If you know or suspect that the requirements of the Compliance Programme have been violated, either by yourself, a fellow employee, or by Armscor, it must be reported immediately to your Senior Manager and to the Senior Manager in whose department the violation or suspected violation has occurred. He/she must conduct an investigation, and if it is agreed that a violation did occur, a voluntary disclosure document will be prepared.

This document will be studied by the Management Board and, when approved, will be submitted to the Ombudsman.

If you are not satisfied with the decision of the Senior Manager or the Management Board, you are at liberty to report the case directly to the Ombudsman. This will serve as a mitigating factor for you, but not for Armscor. Remember, work through the Ombudsman. If we do not do so, we may be liable for prosecution in terms of South African security laws.

### **Proscribed Countries and Denied Persons**

Not all countries and persons in the world demonstrate the values prescribed by the US Government with respect to the control of defence materiel. Such countries are denied access to US origin defence articles, services and technical data.

A list of such countries and entities is available on the Intranet webpage of the Compliance Office. The list will be updated on a regular basis.

### **Penalties**

Any violation of US arms export legislation can lead to severe sanctions and penalties against Armscor and/or the employees involved, thus jeopardising Armscor's business opportunities. Compliance with the procedures in the Compliance Manual is very important to Armscor in order to avoid wilful or unintentional violation.

### **The role of the Compliance Office**

The Armscor Compliance Office provides assistance to Programme Managers with the identification of US origin defence articles as well as the processing of applications for the marketing and transfer of SANDF stock. This office will also carry out internal audits to monitor the effectiveness of the Compliance Programme and will submit reports to the General Manager: Corporate Affairs, who has been designated as the Armscor official responsible for the Compliance Programme.

### **The function and role of the Ombudsman**

The role of the Ombudsman is to monitor the effectiveness of the Compliance Programme, to investigate violations and to submit reports to both Governments. The Ombudsman is regarded as a partner in making the Compliance Programme work.

### **Implications for Industry and the SANDF**

Industry must ensure that all US origin defence articles to be delivered to Armscor are identified and that the necessary US authorisation has been obtained.

The SANDF can assist by tracking all US origin defence articles in order to ensure the accurate and speedy identification of US origin defence articles whenever SANDF stock is transferred to Armscor or industry for repairs, upgrade, modification or sales.

The requirement to adhere to the AECA and ITAR is not restricted to Armscor and Denel, but applies to any person, company or country that receives US origin defence articles, services or technical data (including government bodies, such as the SANDF).

(Armscor Development Office, *Essentials of the Armscor Compliance Programme*. Undated).