

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 41¹ 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.²

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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 embargo³. 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.⁴ 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.⁵

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

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.⁶

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,

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.⁷

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.⁸

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.⁹ 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).¹⁰

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.¹¹

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 equipment¹² 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.¹³

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.¹⁴ 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*".¹⁵

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.¹⁶

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.¹⁷

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).¹⁸

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.¹⁹

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.²⁰

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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.²¹

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;

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.²²

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

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.²³

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.²⁴

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

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.²⁵

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.²⁶

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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.²⁷

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.²⁸ 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.²⁹

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

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.³⁰

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

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.³¹

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

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.³² 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.³³ 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.³⁴

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 ...*".³⁵ 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

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.³⁶

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

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.³⁷

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.³⁸ 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.

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.³⁹

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

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.⁴⁰

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

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.⁴¹

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.⁴²

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

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.⁴³

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

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.⁴⁴

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.⁴⁵

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

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.⁴⁶ 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.⁴⁷

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

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.⁴⁸

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

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 25th 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.⁴⁹

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.⁵⁰

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

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).⁵¹

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

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.⁵²

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.⁵³ 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.⁵⁴

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

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.⁵⁵

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

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.⁵⁶

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

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 25th 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.⁵⁷

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.⁵⁸

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

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.⁵⁹

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.⁶⁰

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

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.⁶¹ 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

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.⁶²

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

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.⁶³

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.⁶⁴

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

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.⁶⁵

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.⁶⁶

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

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.⁶⁷

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.⁶⁸

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

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.⁶⁹

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.⁷⁰ 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

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.⁷¹

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

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.⁷²

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

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.⁷³

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

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.⁷⁴ 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.⁷⁵

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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 embargo⁷⁶ 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 embargo⁷⁷, 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

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.⁷⁸

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

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.⁷⁹

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.⁸⁰

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

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 \$350,000.⁸¹

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.⁸²

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

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*”.⁸³ 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.⁸⁴

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.⁸⁵

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

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*”.⁸⁶ 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.⁸⁷

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

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 G6.⁸⁸

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.⁸⁹

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

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.⁹⁰

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

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.⁹¹

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.⁹²

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

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, Armscor and the birth of the G5 artillery system, *Journal for Contemporary History* 22(2), December 1997, pp. 42-43; Armscor 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, Armscor 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; Armscor 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.⁹³

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

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.⁹⁴

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.⁹⁵

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

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.⁹⁶

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.⁹⁷

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, *Arm Scor 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; Arm Scor 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.⁹⁸

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-

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.⁹⁹

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.¹⁰⁰

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

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.¹⁰¹

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

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-1980.¹⁰²

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.¹⁰³

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

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.¹⁰⁴

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.¹⁰⁵

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

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.¹⁰⁶

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

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 \$105,000.¹⁰⁷

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

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.¹⁰⁸

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

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.¹⁰⁹

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 1.¹¹⁰

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.¹¹¹

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.¹¹²

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 15¹¹³. 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.

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.¹¹⁴

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

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.¹¹⁵ 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

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.