

CHAPTER 4

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

4.1 INTRODUCTION

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

4.2 THE REAGAN ADMINISTRATION'S FRAMING OF A FOREIGN POLICY

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

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

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

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

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

A historian named Chester Crocker would play a significant role in the Reagan Administration's policy toward Southern Africa. He was appointed Assistant Secretary of State for African Affairs in the Reagan Administration, and was the brain behind the policy of constructive engagement that the Reagan Administration would pursue in its foreign policy towards South Africa. According to Rich³, the underlying assumptions behind the policy of constructive engagement stemmed from a conference report sponsored by the Office of the Assistant Secretary of Defense in April 1979. Crocker was one of the panelists of the conference. At the time, he was employed in the Center for Strategic and International Studies at Georgetown University. The conference regarded Africa as a focal point for a more globally-based Soviet-Cuban communist alliance, which could not be addressed by a US policy that was merely responsive to Soviet and Cuban attempts at political destabilization in Africa. Instead, the conference urged, US policy had to recognize Africa's need for stronger, more durable and less easily politicized institutions. A wider role for US policy that necessitated greater US presence to back its policies was stressed, unlike the more simplistic analysis of the Nixon Administration's NSSM 39 and its reliance on white rule in Southern Africa.⁴

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

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

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

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

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

5. P. Rich, United States containment policy, South Africa and the apartheid dilemma, *Review of International Studies*, 14, p. 188; C. Crocker, South Africa: Strategy for change, *Foreign Affairs*, Winter 1980/81, pp. 323-351.

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

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

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

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

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

oil lifeline from the Middle East and made the West newly sensitized to the need to protect this oil lifeline. It is at this point that the importance of South Africa's location at the most southern point of Africa once again surfaced. It was calculated that almost 90% of the Middle Eastern oil was being shipped to the West via the sea route around South Africa. Some argued that the ocean between South Africa and Antarctica was 6,000 nautical miles wide and therefore no ship ever had to come close to the South African coast. Others in turn pointed out that much of this ocean was filled with icy stretches and therefore very hostile. Consequently, ship traffic was funneled to within 500 nautical miles of the South African coast. Still, some argued, the oil lifeline was very long and there were a number of other African ports along the line that could be equally important. This raised another possible aspect of importance: communications and port facilities. South Africa was a central point on the oil lifeline, and using it as a base would allow Western ships to maintain a presence in vast stretches of the Indian Ocean. This aspect was especially important when it is taken into consideration that since the late 1960's, Soviet naval presence in the Indian and South Atlantic oceans had been growing steadily. In fact, the Soviet Navy was accused of instigating military action in Angola and Mozambique, after it became known in early 1981 that a Soviet naval task force was docked in several Mozambique ports as a gesture of support to guerillas after South African commando's raided guerrilla camps across the Mozambique border on 30 January 1981.⁹

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

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

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

In December 1980, a mysterious flash near the Cape Coast was detected by an early warning satellite, just like the Vela incident in 1979¹¹. Reagan chose not to respond to the incident. A few months later, only after US intelligence officials indicated that they believed the flash was a nuclear test, the US Department of Defense quickly responded by saying that the flash did not originate from an explosion, but had emanated from a heat source of intense but brief duration, like a meteor. Unlike the Vela incident, no corroborating evidence was found to link the flash with a nuclear event, and the Department of Defense also did not release the identity of the satellite that made the observation. A government official stated that there was no disagreement about the source of the flash in expert circles. The lack of response from Reagan led to some severe criticism from US anti-apartheid bodies. They felt that South Africa had presented the Reagan Administration with its first test of loyalty, which the latter passed by ignoring the event and acting swiftly to stop any speculation.¹²

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

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

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

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

many African states were alienated from the US early on in the Reagan Administration.¹³

4.3 THE SOUTH AFRICAN RESPONSE TO CONSTRUCTIVE ENGAGEMENT

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

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

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

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

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

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

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

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

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

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

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

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

4.4 RELAXATION OF THE ARMS EMBARGO REGULATIONS

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

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

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

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

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

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

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

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

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

with international civil aviation were unnecessarily banned from export to South Africa.²⁴

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

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

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

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

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

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

In Africa, possible relaxations of the arms embargo regulations produced a chorus of protest²⁸, and in the US, the Subcommittees on International Economic Policy and Trade and Foreign Affairs in the House of Representatives held a Hearing on US export controls for foreign policy purposes, particularly those directed toward South Africa. In a letter to the Department of State dated 29 January 1982, the Subcommittees requested a number of replies. First, a review of the existing US foreign policy restrictions on

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

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

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

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

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

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

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

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

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

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

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

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

In answer to the question whether circumstances in South Africa changed to warrant modification of the export regulations, the Department of State replied that the matter was under study, and that other reasons for changes were also being considered. These included the probability of achieving the intended foreign policy purposes, compatibility with the foreign policy objectives of the US, reaction of other countries, likely effects on US exports and the US economy, enforceability, and foreign policy consequences of not imposing controls. The Department of State was backed in this opinion by Bo Denysyk, the US Deputy Assistant Secretary of Commerce for Export Administration. Denysyk delivered a statement before the Subcommittee Hearing in which he listed the same reasons for possible changes in the export regulations with regard to South Africa. He emphasized that no one reason or criterion drove the decision to impose, maintain or expand foreign policy controls, but that there had to be a balance between all six of the reasons mentioned. He reiterated that there was no need for concern, however, as the Reagan Administration had publicly and privately informed the South African Government that its policy of apartheid was repugnant. The Reagan Administration would adhere to all United Nations resolutions and would continue to encourage change in South Africa through the policy of constructive engagement, which must be reflected in the export controls due to be announced at the end of February 1982.³³

On 26 February 1982, the Reagan Administration relaxed export restrictions on nonmilitary goods to the South African military and police forces, to take effect on 1 March 1982. Under the new regulations, the US Government would not maintain special export controls on four categories of commodities and technical data, namely general purpose hygienic items such as soap and toothpaste, general purpose industrial equipment and industrial chemicals such as solvents, cleaners and basic machine tools, personal electronics and personal communications equipment, including word processors, copy machines, hand-held calculators and other office equipment, and lastly personal gift packages. The action represented a reversal of the arms embargo policy established by the Carter Administration in 1978. The Department of State quickly reiterated that the new regulations were not intended to open the way for the sale of equipment that might be used for military purposes or to enforce apartheid. A case-to-

33. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5, *Comments* by William A. Root, Director: Office of East-West Trade, Department of State, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982; *Prepared statement* of Bo Denysyk, Deputy Assistant Secretary of Commerce for Export Administration, before the Subcommittees of the House Foreign Affairs Committee on Africa and on International Economic Policy, 9 February 1982, pp. 4-8.

case review of all export applications to South Africa would still be undertaken and any export that could be used to enforce apartheid would be refused. Denysyk as spokesperson for the Department of Commerce said that although the relaxation of certain export restrictions signified a shift in liberalizing export controls, it should not be taken to mean that the Reagan Administration was condoning the policy of apartheid. Rather, it was a small step taken by the US toward South Africa, and the latter should be taking small steps toward the US in turn. He also reiterated that the relaxation of controls would not affect the US' adherence to the United Nations arms embargo.³⁴

The new export regulations elicited swift denouncement from several US members of Congress. For example, the chairman of the House of Representatives Subcommittee on African Affairs, Howard Wolpe, called the step a tragic foreign policy mistake and unmistakable evidence of a tilt toward South Africa by the Reagan Administration. He was afraid that the South African Government would take it as a further sign that they could continue to reinforce their repression of non-white South Africans. Furthermore, Wolpe asserted that the step would be taken throughout the African continent as evidence of US support for the South African Government's apartheid policy.³⁵

In response to the criticism, the Department of State again defended the policy change by saying that the new regulations were less arbitrary than those they replaced. The case for modification rested on four points: First, the regulations in their previous form were unenforceable. Advocates of strict US export controls tended to ignore the crucial factor that the enforcement of such restrictions upon South Africa would require an army of US officials operating abroad to monitor exports of US-origin items from other countries to South Africa, as well as another body of officials operating in South Africa to monitor that country's imports. For example, how could an official of the US Embassy in Pretoria be expected to recognize a US part in a West German light aircraft, or a component in a Japanese computer that had been manufactured with the use of US technology? Even more important, why would the South African Government allow US officials to inspect its entire range of imports for US content?

34. W. Chapman and J.M. Goshko, U.S. lifts curbs on certain sales to South Africa, *The Washington Post*, 27 February 1982, pp. A1, A12; R.D. Hershey, U.S. said to ease South Africa curb, *The New York Times*, Section II, 27 February 1982, p. 30; Anonymous, U.S. to ease South Africa embargo, *Chicago Tribune*, 27 February 1982, p. 1.

35. R.D. Hershey, U.S. said to ease South Africa curb, *The New York Times*, 27 February 1982, Section II, p. 30; W. Chapman & J.M. Goshko, U.S. lifts curbs on certain sales to South Africa, *The Washington Post*, 27 February 1982, p. A12.

Secondly, failure to modify the regulations could in future seriously hinder progress of the negotiations for Namibian independence, in which the US was taking the lead. The negotiations had reached a stage where the US had to appear willing to offer South Africa some concessions in return for the latter's support of Namibian independence.

Thirdly, maintenance of the previous export restrictions might have never obliged South Africa to alter its domestic policies. Rather, stricter regulations would be no more effective and would only serve to hamper US business involvement in South Africa, despite the fact that US companies had a record in breaking down racial barriers. The US had to face the fact that South Africa was dependent upon the US for only 16,5 percent of its broad range of imports. It was true that if South Africa were denied access to high technology US imports, it would suffer economically. Nonetheless, to assert that deprivation of high technology imports would necessarily prompt changes in South Africa's policy of apartheid would be to assume a degree of economic rationality that was altogether atypical of the South African Government. Furthermore, so long as West Germany, Japan and other industrial nations continued to treat their own economic interests as the primary criteria of their foreign policies, South Africa would not lack high technology imports.

Lastly, in the light of the mentioned factors, there was no justification either for the maintenance of current regulations or for further restrictions on US trade with South Africa. Some advocates of sanctions against South Africa have asserted that the primary question was not one of effectiveness of such measures, but of morality. In other words, the US should not associate with any state that deviates so broadly from its own stance on human rights. However, the moral question was not quite so simple, as a truly moral policy would have to be applied uniformly. That would mean that the US would have to cut commercial contacts with almost every state in Southern Africa, especially Mozambique and Angola, where human rights were also badly violated. Still, even if the South African Government was Southern Africa's sole offender against human rights, would it be moral for the US to cut all trade connections with South Africa? Such a cut would also prove to be the abandonment of US influence through American companies in South Africa. That would make the US guilty of hypocrisy and

would deprive it of its capacity to assist South African black and colored people in their quest for expanded civil rights.³⁶

In a statement on 1 March 1982, the Department of State explained that in its annual review of foreign policy controls, it was determined that the total embargo on exports to the South African military and police was too widely cast to achieve its objective. They therefore decided to refine the export controls and have identified certain items of no national security concern as commodities that did not need to be controlled. The adjustments made the South African trade controls less arbitrary from the perspective of US exporters, while at the same time it maintained a strong symbolic and practical disassociation of the US from the enforcement of apartheid in South Africa. The new regulations still went beyond the minimum legal obligations of the United Nations arms embargo and were still more than those of other Western industrial countries. There would be continued prohibition on the export of arms and related material and equipment for the production of arms and related material, as well as on the export of a broader category of goods and technology that included virtually everything of particular applicability to military operations or production. In addition to these, most other proposed exports to South Africa would be evaluated on a case-by-case basis and would be prohibited if the export would contribute significantly to South African military and police functions. However, a carefully defined set of items, including food, non-military clothing and personal hygienic goods, certain industrial equipment and material and certain office equipment that had nothing to do with the enforcement of apartheid or policing in South Africa, were exempted from the case-by-case review process.³⁷

According to the Departments of State and Commerce, the new regulations were aimed at eliminating some of the negative effects of the old regulations, which in some respects were burdensome on US exporters. For example, the old regulations many

36. Anonymous, U.S. confirms easing of South African curbs, *The New York Times*, 28 February 1982, p. 8; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 4: **Policy analysis**, U.S. exports to South Africa: The tough choice, 9 February 1982, pp. 4-8.

37. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Statement** by US Department of State on change in export controls on United States trade with South Africa, 1 March 1982, pp. 1-2; *Federal Register* 47(43), Department of Commerce Extension of Foreign Policy Export Controls, 4 March 1982, p. 9203; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01368, **Testimony** by the Assistant Secretary of State for Human Rights and Humanitarian Affairs and the Assistant Secretary of State for African Affairs before two Subcommittees of the House Foreign Affairs Committee, 9 March 1982.

times prohibited the export of innocuous items not banned by other Western nations to the private sector in South Africa, even if only a small portion of such items would ultimately be sold on the open market to the South African military or police. Furthermore, the old regulations prevented the export of parts and components to third countries if those items would constitute even an insignificant portion of goods manufactured in that country and sold to the South African military and police. Under the new regulations, the export of some items that would not contribute significantly to military or police functions would be exported to South Africa. It included provisions designed to limit the anomalous effects of the old regulations.³⁸

Changes were also made in the regulations governing non-military aircraft and computer sales to South Africa. The old regulations required exporters of aircraft to obtain written assurances from South African purchasers that the aircraft would not be used for police, military or paramilitary purposes. Under the new regulations, licenses for the export of aircraft would be granted only on condition that the aircraft would not be put to police, military or paramilitary use. Written assurances burdened both the exporters and the US Government, and would therefore no longer be required. However, according to the Export Administration Regulations, any exporter who sold an aircraft to South Africa with knowledge or reason to believe that the license condition would be violated, was subjected to prosecution. Concerning computer sales, under the old regulations computer sales to South Africa were reviewed on a case-by-case basis to determine if the computer would be used to enforce the policy of apartheid. Under the new regulations, the restriction was limited to the South African military and police and five Government agencies primarily responsible for the enforcement of apartheid, namely the Departments of Cooperation and Development, Interior, Community Development, Justice and Manpower. Applications for validated licenses for computers that would not be used to enforce apartheid would generally be considered favorably. According to the Department of State, the change in computer regulations would make it less

38. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Statement** by the United States Department of State on change in export controls on United States trade with South Africa, 1 March 1982, p. 2; **Federal Register** 47(43), Department of Commerce Extension of Foreign Policy Export Controls, 4 March 1982, p. 9201.

burdensome and more administrable by providing a more precise indication of what activities should be considered as enforcing apartheid.³⁹

Under the new regulations, a validated export license was required for export or re-export to South Africa or Namibia of any commodity, including commodities that may be exported to any destination in Country Group V⁴⁰ under a general license, where the exporter or re-exporter knew or had reason to know that the commodity would be sold to or used by the military or police entities. Individual applications would be viewed on a case-by-case basis. The following items were however exempt from this regulation: food, non-military clothing, personal hygiene items, chemical and general industrial equipment of no national security concern, word processors, personal computers, electronic copy machines, home electronics and personal communications not controlled for national security purposes. Authorizations for exports, re-exports or sales for use by military and police entities in South Africa and Namibia, of US-origin technical data, foreign-origin goods containing US-origin parts, components or materials, would be denied, except the following on a case-by-case basis:

- Items not controlled for national security purposes unless they could contribute significantly to military or police functions;
- Medicines, medical supplies and medical equipment;
- Commodities and technical data to be used in the prevention of unlawful interference with international civil aviation;
- Electronic equipment already mentioned earlier in this paragraph, however only if the export would not contribute significantly to military or police functions;
- Items produced outside the US with twenty percent or less US-origin components;
- Insubstantial portions of commodities or technical data exported to entities other than the South African military or police may be sold to the latter only

39. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5: **Statement** by the United States Department of State on change in export controls on United States trade with South Africa, 1 March 1982, p. 2; **Federal Register** 47(43), Department of Commerce Extension of Foreign Policy Export Controls, 4 March 1982, p. 9204; P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, **Department of State Bulletin**, May 1983, pp. 27-28.

40. Friendly, non-allied countries.

if these items would not contribute significantly to military or police functions. All users of US technical data in South Africa or Namibia had to be informed in writing at the time of the export or re-export of the data that the direct product of that data may not be sold or otherwise made available, directly or indirectly, to military or police entities in South Africa or Namibia.⁴¹

A validated license was required for the export to any end user in South Africa or Namibia of any instrument or piece of equipment that could be particularly useful in crime control and detection. This restriction was however not unique to South Africa – a validated license for the export of such equipment to any country except NATO members, Japan, Australia and New Zealand was required. The Export Administration Regulations provided that applications for validated licenses for such equipment would generally be considered favorably on a case-by-case basis, unless evidence existed that the government of the importing country may have violated international human rights and that the judicious use of export control regulations would be helpful in deterring the development of a consistent pattern of such violations or in distancing the US from such violations, as was the case with South Africa.⁴²

In September 1982, the Reagan Administration further modified the export control regulations to allow companies that had sold equipment to the South African police and military under approved licenses, to supply service manuals for the equipment without submitting separate license applications. Air ambulances were placed under the exception for medical equipment, and the export without license for items falling under the so-called 'basket entries' of the Commodity Control List, i.e. miscellaneous electronic products and other products not elsewhere specified, were allowed. Lastly, subsidiaries of Armscor were specifically defined as military entities.⁴³

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41. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Statement** by the US Department of State on change in export controls on United States trade with South Africa, 1 March 1982, pp. 2-3; **Federal Register** 47(43), Department of Commerce extension of Foreign Policy Export Controls, 4 March 1982, pp. 9203-9204.
 42. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Federal Register** 47(43), Department of Commerce extension of Foreign Policy Export Controls, 4 March 1982, p. 9204; P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, **Department of State Bulletin**, May 1983, pp. 27-28.
 43. P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, **Department of State Bulletin**, May 1983, p. 29.

On 21 January 1983, the Reagan Administration published yet another revision of Commodity Control List regulations on exports to the police and military. It was emphasized that the Commodity Control List covered non-Munitions List items and that no change was made in items on the Munitions List, through which the US implemented the United Nations arms embargo. The changes were occasioned by the legal requirement that US foreign policy export controls be reviewed annually and either renewed or allowed to lapse. It was further emphasized that the changes were not related to any specific event and were designed to make the US' export controls a more effective instrument of US opposition to apartheid.⁴⁴

Concerning the annual revision, two broad changes were made in the restrictions on exports to the South African military and police. Firstly, all items controlled for human rights or nuclear non-proliferation purposes were embargoed for the South African military and police. These items were previously subject to a case-by-case review, and included items on the crime control list, a list of commodities intended for police and other law enforcement purposes, as well as a range of dual-use items that had been identified as being of potential value in a nuclear weapons program. Secondly, six categories of non-sensitive items were removed from case-by-case review and made subject to general license procedures. The Department of State viewed these changes as technical in nature, with no intent to make it a political statement. According to the Department of State, the two changes together served to focus the US controls on those exports to the South African military and police that were of practical and symbolic concern to the US, i.e. military-related items and items controlled for human rights and nuclear non-proliferation purposes.⁴⁵

The January 1983 changes only affected the export of items subject to Department of Commerce license procedures. According to the Department of State, no changes were made that in any way affected US commitment to or implementation of the United Nations arms embargo, which was enforced primarily through the Department of State's international traffic in arms regulations. No changes were furthermore made to restrictions on exports of computers to South African agencies that enforced apartheid

44. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01469: **Telegram**: Secretary of State to United States Consul, Cape Town, 22 January 1983.

45. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01469: **Telegram**: Secretary of State to United States Consul, Cape Town, 22 January 1983.

or in restrictions on export of civilian light aircraft for the South African police, military or paramilitary end-users.⁴⁶

But, despite the Reagan Administration's continued assurances that the change in regulations did not by any means weaken the arms embargo against South Africa, evidence show that it successfully reversed the trend of the Carter Administration to reduce the flow of Munitions List items to South Africa. During the Carter Administration, after the institution of the arms embargo, the flow had been reduced as follows: in 1978, the US Department of State issued \$4,6 million worth of Munitions List licenses for sales to South Africa; in 1979, the value of such licenses was \$25,000; and in 1980, no licenses were granted for Munitions List sales to South Africa. On the other hand, during the fiscal years 1981-1983, i.e. under the Reagan Administration, the Department of State's Office of Munitions Control authorized twenty-nine separate exports of Munitions List items to South Africa. These exports covered military goods worth over \$28,3 million, which was far more than the total value of commercial military exports to South Africa for the entire previous thirty years.⁴⁷

4.5 THE REACTION TO THE NEW ARMS EMBARGO REGULATIONS

The South African Government was cautiously excited about the new regulations. In a telex from the South African Embassy in the US to the Department of Foreign Affairs and Information, it was pointed out that the new regulations represented a considerable relaxation of the previous arms embargo regulations. Careful examination of the new regulations would make it clear that many import possibilities that were previously excluded had now been created, e.g. foreign-origin equipment that permitted a 20 percent US-origin component. Furthermore, although the Reagan Administration retained a broad range of regulations, the South African Embassy had been given to understand that a progressive further relaxation of US export regulations would take place over the next three years. The Department of State's position was that the new regulations represented a significant but politically less sensitive first phase in what they anticipated would be a consistent process of elimination of trade restraints with South Africa. In a

46. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01469: *Telegram*: Secretary of State to United States Consul, Cape Town, 22 January 1983.

47. NARMIC, *Military exports to South Africa: A research report on the arms embargo*, p. 3.

further telex to the Director-General: Foreign Affairs and Information on 28 February 1982, the South African Ambassador in the US suggested that the South African Government should identify, in order of priority, those regulations which would be particularly irksome on having them removed. Apparently, the Ambassador had succeeded in the past year to generate considerable support from US business interests to which the Reagan Administration was inclined to be responsive. This campaign, the Ambassador advised, should not be neglected, but should continue on a well-coordinated basis. Therefore, the Ambassador urged an assessment of the South African priorities in order to enable the South African Embassy in the US to identify those US business concerns that could and should be activated.⁴⁸

The South African excitement about the relaxation of certain arms embargo regulations almost got out of hand and created a difficult situation for the Reagan Administration when the South African Press Association (SAPA) reported on 2 March 1982 that the Chairman of Armscor, Commandant P.G. Marais, had announced that the US had lifted the embargo on the sale of certain military equipment to South Africa. The South African Embassy in the US reacted hastily, saying that if Marais was correctly quoted, his statement evidenced inaccurate information or a wrong interpretation of the limited relaxation of US export regulations to South Africa. Such a deduction provided ammunition to the critics in the US who had launched heavy attacks against the Reagan Administration since the announcement of the new regulations, and who would most certainly use statements by prominent South Africans in an effort to embarrass the Reagan Administration. The US Embassy in Pretoria was also quick to condemn the report in a letter to Marais. It was explained that in the interest of avoiding any possible misinterpretation of the US Export Administration Regulations with regard to South Africa, it must be clearly understood that the new regulations only refined the controls over certain items and identified certain other items of no US national security concern that did not need to be controlled. The US was adamant to continue to adhere to the United Nations arms embargo and there had been no change in US policy regarding the sale of armaments, weapons systems or related material or equipment for the production of such items to South Africa. On 15 March 1982, Marais denied in a letter

48. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Telex** from South African Embassy, Washington, D.C. to Department of Foreign Affairs and Information, 27 February 1982; **Letter** from Director-General: Foreign Affairs and Information to Director-General: Industries, Commerce and Tourism, Chief: SA Defense Force and Executive Vice-Chairman: Armscor, 9 March 1982.

to the South African Director-General of Foreign Affairs that he had issued any statement about the lifting of the US' embargo on the sale of military equipment to South Africa. He emphasized that Armscor was completely up to date with US decisions in this regard and had taken note that the US would continue to adhere strictly to the arms embargo.⁴⁹

The relaxation of certain export regulations vis-à-vis South Africa evidenced a turn-about in a 20-year trend toward greater limits on US trade and official cooperation with South Africa. But instead of biding out the time and waiting for more positive actions by the Reagan Administration, the SADF launched a renewed incursion into Angola. The Department of State immediately reacted, saying that the Reagan Administration continued to deplore any escalation of violence in the region from any quarter, and that the loss of life in the incursion underlined the urgent need of a settlement of the Namibia issue. In the US Congress, anti-apartheid activists used the raid to attack the Reagan Administration's relaxation of certain arms embargo export regulations vis-à-vis South Africa. In a hearing before the Senate Foreign Relations Subcommittee, Senator Paul Tsongas, a well-known anti-apartheid activist, suggested that the incursion served as evidence that the Reagan Administration was in fact contributing to the capability of the SADF by excluding certain items from the list of embargoed items and general relaxations of controls to military authorities in South Africa. As example, he specifically referred to reports about an application for an export license by US companies for ambulance aircraft to South Africa. Tsongas was concerned that the aircraft might be refitted by the SADF for offensive purposes or the evacuation of wounded soldiers from Angola.⁵⁰

The Department of State responded to Tsongas' concern by saying that the Reagan Administration was inclined to be favorably disposed to granting the licenses for the ambulance aircraft under the new regulations, which allowed export licenses for medical equipment on a case-by-case basis. As ambulance aircraft were used to hospitalize the

49. Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5: **Telex** from South African Embassy, Washington, D.C. to Department of Foreign Affairs and Information, 3 March 1982; **Letter**: United States Embassy, Pretoria, to Commandant P.G. Marais, 4 March 1982; **Telex** from P.G. Marais to Director-General: Foreign Affairs, 15 March 1982.

50. R. Kramer, Proposed aircraft sales to S. Africa tests new United States trade policy, *The Washington Post*, 16 March 1982, p. A20; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Telegram** from South African Ambassador, Washington, D.C. to Director-General: Foreign Affairs and Information, 18 March 1982.

sick and wounded, its use was for humanitarian purposes. As such, ambulance aircraft should be categorized as a medical item. Therefore, in the opinion of the Department of State, there was no difference between such aircraft and any other medical equipment or medicines. In addition, the Department of State was of the opinion that South Africa could acquire comparable aircraft for offensive purposes at a fraction of the cost of the highly sophisticated, specially equipped ambulance aircraft for which export licenses were requested.⁵¹

Tsongas was not so easily appeased. He maintained that the Senate Foreign Relations Subcommittee was concerned about the environment in which relaxation of export regulations was taking place, and drew a comparison between the South African security legislation and treatment of political detainees and the situation in the Soviet Union. The Department of State spokesmen in answer vigorously defended the Reagan Administration's policy of constructive engagement, saying that the Administration had not changed its attitude to South Africa and that the amended export control regulations should not be interpreted as indicative of any change in that attitude. Tsongas still felt that a decision to approve export licenses for ambulance aircraft to South Africa would convey a message of cooperation and support to both South Africa and the rest of Africa that would not be in the interests of the US. However, Tsongas finally conceded that if such exports were the price to be paid for a settlement in South West Africa (Namibia), then he understood the Reagan Administration's dilemma. On that ground he was open to persuasion that a more liberal interpretation of the export control regulations was in the interests of the US. However, he reiterated that the US should not lose sight of the fact that great symbolism attached to any action vis-à-vis South Africa, and for that reason he would never be persuaded that in the existing circumstances, a closer relationship between the US and South Africa was desirable. The Department of State replied that no symbolism attached to the amendment of the export control regulations, for the simple reason that the US Administration was obliged by Congress to review the control list annually.⁵²

51. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5, **Telegram** from South African Ambassador, Washington, D.C. to Director-General: Foreign Affairs and Information, 18 March 1982.

52. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5, **Telegram** from South African Ambassador, Washington, D.C. to Director-General: Foreign Affairs and Information, 18 March 1982.

On 22 March 1982, Crocker defended the Reagan Administration's policy before the Subcommittee on Security and Terrorism of the Senate Judiciary Committee. Once again, the emphasis was on communist influence in Southern Africa. Crocker categorically condemned all terrorist and other violent acts that SWAPO and the ANC, with the help of the Soviet Union, undertook to bring about change in Namibia and South Africa. He was less assertive as far as South Africa was concerned. Although he condemned the violence in the country, he said that the Reagan Administration was pursuing a *careful* policy of constructive engagement.⁵³ This re-emphasized the fact that the Reagan Administration regarded South Africa as an important ally in the Cold War.

On 24 March 1982, Senator Tsongas and some co-sponsors lay before the Senate a resolution on export control regulations for the Middle East and South Africa. The resolution called on the Reagan Administration to modify the new regulations in several specific ways. According to Tsongas and his co-sponsors, the new export regulations for South Africa were a case in point of poorly designed foreign policy signals, as the changes in export regulations for South Africa significantly relaxed the US implementation of the United Nations arms embargo against South Africa. In the opinion of Tsongas, nothing was more crucial to the survival of the policy of apartheid than the flow of armaments to the South African military and police. But now, the new regulations would allow the export of aircraft, advanced computers and other national security controlled items to those entities. Of concern to Tsongas, was that such exports would be more than foreign policy signals in the sense that it would become foreign policy. In other words, it would identify the US with a system of racial oppression that was universally regarded as anathema to liberty and human dignity.⁵⁴

Tsongas made it clear that he was one Senator among many who had tempered their criticism of the Reagan Administration's policy of constructive engagement, which had unfolded over the preceding year. He had done that so as to leave the Reagan Administration with both time and political space to conduct the experiment of constructive engagement. Therefore, he had not publicly condemn the visit of the South African military officials in 1981, nor the Administration's tacit acceptance of the South African military incursions into Angola, nor prior export regulation changes dealing with

53. C.A. Crocker, Communist influence in Southern Africa, *Department of State Bulletin*, June 1982, p. 46.

54. Resolution on Export Control Regulations for the Middle East and South Africa, *Congressional Record* 128(31), Proceedings and Debates of the 97th Congress, Second Session, Senate, 24 March 1982.

medical supplies and airport equipment, and not even the apparently growing cooperation with South Africa on nuclear matters. He firmly believed that the Reagan Administration was seeking an internationally acceptable settlement for the South West Africa (Namibia) issue. However, in his eyes constructive engagement would degenerate into a pro-South African policy if the Reagan Administration chose to abandon limited signals in favor of unqualified embrace, which was exactly the case with certain of the export regulations that had changed. Tsongas' resolution was aimed at pointing out the changes which he and his co-sponsors thought was significant, i.e. aircraft, computers and all other items under national security controls, and urging that they be reverted to the prior regulations of not allowing their export to the South African military and police. The resolution further urged that a significant loophole in the arms embargo be closed as far as Armscor was concerned. Tsongas asserted that the enforcement of the arms embargo was ambiguous as far as Armscor and its subsidiaries were concerned. As the South African military relied on Armscor and its subsidiaries for a large number of armaments, the resolution therefore requested that Armscor, its subsidiaries and the CSIR be defined as military entities.⁵⁵ In this regard, however, Tsongas' request was not based on entirely correct facts, as the Carter Administration already in September 1978 issued a notice in the US Federal Register that Armscor, amongst other companies, was considered to be a military entity.⁵⁶

By the end of 1983, sentiment became high in anti-apartheid circles about the Reagan Administration's positive stance towards South Africa as especially evident from the relaxation of arms export controls. One example of this could be concluded from a seminar arranged by the anti-apartheid organization TransAfrica on the question of should the US impose sanctions on South Africa or not. The panelists included a representative from the Department of State, David Dlouhy, and Oumarou Youssoufou, the OAU representative to the United Nations, amongst other representatives from the ANC, the American Committee on Africa, the Washington Office of Africa and SWAPO.

The debate turned to the arms embargo when Dlouhy used it to answer a question about the efficacy of sanctions. According to Dlouhy, the arms embargo had acted as an incentive to the development of military self-sufficiency of South Africa. Rather than

55. Resolution on Export Control Regulations for the Middle East and South Africa, *Congressional Record* 128(31), Proceedings and Debates of the 97th Congress, Second Session, Senate, 24 March 1982.

56. See Chapter 3, p. 113-114.

isolating South Africa or denying it military capability, the arms embargo had strengthened South Africa's military capabilities, making it a regional superpower. Furthermore, the South African military had gained certain predominance inside the South African Government. It was certainly not the objective of those who voted for the arms embargo in 1977. Therefore, it only meant one thing – that particular sanctions had not worked. In the light of that, Dlouhy doubted that further sanctions against South Africa would have the desired impact. Youssoufou however did not agree with Dlouhy, saying that South Africa was a regional superpower even before the arms embargo was instituted. In his opinion, the arms embargo was an appropriate measure despite the fact that South Africa had produced more arms, because of the important psychological effect thereof. South Africa was still dependent on the US, and by imposing stricter measures like sanctions and strengthening the arms embargo, the US could still play a very important role in ending apartheid in South Africa.⁵⁷

In January 1984, two anti-apartheid lobbying groups, the American Friends Service Committee (AFSC) and the Washington Office on Africa, lashed out in a report against the Reagan Administration's alleged relaxation of arms embargo regulations. The two organizations claimed that they had evidence that the Reagan Administration had during the previous three years sharply increased the export of items with military uses to South African firms by authorizing 29 export licenses worth almost \$30 million in contravention of the United Nations arms embargo. They claimed to have obtained the information from official US records after invoking the Freedom of Information Act, which gave the American public the right to obtain certain information from Government departments. Although the AFSC was given the assurance that only items on the Munitions List that also had civilian uses were approved for export to South Africa after careful consideration, they criticized these exports, stating that once the technology reached South Africa, it would be impossible to prevent it from being used by the South African Government for military purposes, as many of the exports went to firms that were doing research for the South African Government. However, the two organizations produced no proof in their report that this indeed happened. It only said that the findings were based on the mentioned documents, which were not reproduced in the report,

57. Anonymous, Should the U.S. impose sanctions? *TransAfrica Forum*, Fall 1983, pp. 39-40.

interviews with Reagan Administration representatives and a survey of military-industrial publications and South African patent documents.⁵⁸

In addition to the above-mentioned reports, a privately funded American study group called the Center for Defense Information published a report that alleged that since the start of the Reagan Administration, US Government sales of military-related hardware to South Africa had indeed decreased, but commercial sales of military-related hardware to South African clients increased. This hardware included aerial mapping equipment, parts for the C-130 transport aircraft, inertial navigation systems, military vehicles and spare parts, riot control chemical agents, herbicides, tank engine parts, speech scramblers, computer components and ammunition.⁵⁹

Although the abovementioned organizations did not provide their proof, the Department of State acknowledged that the sales had indeed taken place. However, it emphasized strongly that most of the licenses that were approved during the previous three years had been for data-encoding equipment used by banks primarily in automatic teller machines, and as such were not the sort of equipment that could be readily diverted to military uses. There was only one exception, namely the export of electronic equipment and navy vessels to a company called Howitzers. However, the sale was done in a fraudulent manner and the persons involved in the transaction had already been prosecuted and were serving a prison term. The Department also denied that the increase of exports to South Africa was a result of political pressure for better relations with South Africa under the policy of Constructive Engagement, claiming that it was simply legitimate trade.⁶⁰

In April 1984, the American Committee on Africa (ACOA) joined ranks with the above-mentioned two organizations when it delivered a statement entitled "*Constructive*

58. L. Verdon, Groups hit Administration: Rise in military exports to South Africa alleged, *The Washington Post*, 13 January 1984, p. A 26; G. L'Ange, United States breaks the SA arms ban – claim, *The Star*, 13 January 1984, p. 7; Anonymous, Amerika verbreek glo VV-verbod, *Die Transvaler*, 14 January 1984, p. 3; Anonymous, U.S. licensed R35 M military sales to SA – claim, *The Natal Witness*, 14 January 1984, p. 3; Anonymous, 2 groups say U.S. violates South Africa arms embargo, *The New York Times*, 14 January 1984, p. 3; Anonymous, US said to have violated S. Africa arms sales ban, *The Christian Science Monitor*, 16 January 1984, p. 1.

59. N. Sheppard Jr., U.S. to name Israel as arms ban violator, *Chicago Tribune*, 24 March 1987, p. 4.

60. L. Verdon, Groups hit Administration: Rise in military exports to South Africa alleged, *The Washington Post*, 13 January 1984, p. A 26; Anonymous, 2 groups say U.S. violates South Africa arms embargo, *The New York Times*, 14 January 1984, p. 3; Anonymous, US said to have violated S. Africa arms sales ban, *The Christian Science Monitor*, 16 January 1984, p. 1.

Engagement and the Arms Embargo” before the United Nations Special Committee against Apartheid. In the statement, the Reagan Administration was again accused of a significant relaxation of the arms embargo, thereby assisting South Africa to maintain its power in Southern Africa. According to ACOA, although South Africa was spending millions of Rands to manufacture its own armaments, a fact that was demonstrated clearly at an armaments show in Chile in February 1984, it remained dependent on foreign sources for advanced technology, vehicles and aircraft. These were obtained because Western countries, including the US, did not implement the arms embargo in a forceful and effective manner. Also, a second weakness in the arms embargo was the exclusion from the embargo of many elements with a clear and direct military application.⁶¹ In the light of these allegations, it is deemed important to at this point discuss some examples of exports to South Africa during the first term of the Reagan Administration, in order to establish if the allegations were in fact true.

4.6 ALLEGED AND ACTUAL VIOLATIONS OF THE ARMS EMBARGO DURING THE FIRST TERM OF THE REAGAN ADMINISTRATION

4.6.1 SOUTH AFRICAN MILITARY PERSONNEL IN THE US

In 1984, a US representative at the United Nations asserted that the Reagan Administration had not provided any military training to South African military or police members. This statement was contradictory to events occurring from 1981-1984. As discussed, in mid-1981 the Reagan Administration agreed to the establishment of more South African honorary consulates in the US, renewed the exchange of military attachés between the US and South Africa, and granted authorization for the training of the South African Coast Guard.⁶² Also, in March 1982, it was disclosed by the *New York Times* that the Reagan Administration had quietly eased a long-standing practice of not allowing high-ranking South African military officers into the US. The reason for the disclosure was that in preceding months, senior South African military officers had come to the US as part of delegations that met privately with Crocker on the question of Namibia. One of these officials was Lieutenant-General P.W. van der Westhuizen, the

61. R. Knight, *Constructive Engagement and the arms embargo*, *ACOA News*, 3 April 1984, pp. 1-2.

62. See Section 4.4, p. 188.

chief of staff for intelligence in the SADF, who was requested to leave the US in March 1981 after he and four others entered the country under misleading circumstances.⁶³

In March 1982, questions on these relaxations were raised in a Hearing on the Enforcement of the US arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs in the House of Representatives. Firstly, a member of the African Subcommittee, Bill Gray, wanted clarification on the role of the South African defense attachés in the US. He also wanted to know if there had been an increase in the number of South African defense attachés in the US. In answer, the Office Director for Southern Africa in the Department of State, Dan Simpson, said that the typical role of a defense attaché would be to provide information on an activity in a country. He would also perform basic intelligence and information roles and liaise with the armed forces of the country in question. In other words, he would try to gain information about the Defense Force of the country in question. With regard to the number of South African defense attachés in the US, Simpson indicated that the new regulations simply restored the level of South African attachés to a previous level that existed prior to the expulsion of some US attachés from South Africa due to the spy-plane incident discussed in Chapter 3⁶⁴. However, the number of attachés increased. Previously, South Africa only had an army attaché in the US, while now it also added an air force attaché and a navy attaché.⁶⁵

Turning to the training of the South African Coast Guard in the US, which was also approved under the new regulations, Gray enquired about the nature and purpose of the training. He wanted to know how that, together with the increase of South African defense attachés in the US, reconciled with the US arms embargo against South Africa. Simpson in answer pointed out that the purpose of the training of the South African Coast Guard was to increase their capacity to carry out their normal role of air and sea rescue on the busy international sea route around the Cape. As far as the arms embargo

63. See Section 4.3, pp. 181-183; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 139; Anonymous, U.S. eases ban on South African officers, *The New York Times*, 12 March 1982, p. A3.

64. See Chapter 3, Section 3.5.1.4, pp. 139-142.

65. R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 139; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01374: *Hearing* on Enforcement of the United States arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 30 March 1982, pp. 20-21.

was concerned, Simpson was of the opinion that the embargo applied to the sale and provision of arms-related materials. He reiterated that the role of a coast guard was certainly not primarily military and as far as he knew, the South African Government had voiced its intention of creating a purely civilian coast guard within the Ministry of Transport. In answer to a question by Gray if that was the rationale behind the training, i.e. that it did not contradict the letter of the arms embargo because it was not physical material that was provided, Simpson said that it was not quite what he meant. What he meant was that US ships sailed around the Cape of Good Hope, and that it was in the interest of the US to see that if some problem were to befall them, South Africa would be capable of responding to their needs. Simpson however did not address the other part of the question on whether the increased amount of South African attachés in the US compromised the arms embargo.⁶⁶

Between 1981 and 1984, the US Coast Guard trained ten South African naval and air force officers in search and rescue techniques. The Department of State acknowledged the training to be of potential military benefit. In 1982, a South African police major participated in a police-media training program in Chicago, while in 1983, two South African police members attended a convention of the International Association of Chiefs of Police in Detroit. The organization included South African police and security officials among its members. For anti-apartheid lobbyists, South African participation in such organizations was significant in increasing South African police capabilities, especially in the light of a South African Police General's words after the country was admitted to a similar body, the International Police Association: "*becoming a member of the International Police Association is a highlight in these times of isolation experienced by South Africa.*"⁶⁷ In 1983, the Reagan Administration trained a South African vice and drug police officer in drug law enforcement techniques.⁶⁸

66. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01374: **Hearing** on Enforcement of the United States arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 30 March 1982, p. 21.

67. As quoted in R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 140.

68. R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 138.

4.6.2 AIRCRAFT

Concern about the supply of military aircraft and other light aircraft to South African during the Reagan Administration was first raised in March 1981, when a *New York Times* columnist claimed that the Reagan Administration was considering granting permission to Israel to export its fighter-bomber aircraft, called the Kfir, to South Africa. As the Kfir contained a US manufactured jet engine, such a transfer would have meant a breach of the arms embargo by both Israel and the US. However, shortly after the report the US Ambassador to the United Nations, Jeanne Kirkpatrick, stated clearly that the US would not permit third-country sales to South Africa of military equipment that contained US components, and this included the Kfir. This signaled an upholding of a major element in the arms embargo by the Reagan Administration.⁶⁹

In 1981, a US company, Beech Aircraft, applied for export licenses for ambulance aircraft to South Africa. The Reagan Administration, in light of the review of the Export Control Regulations vis-à-vis South Africa, delayed a decision on the application. The review nonetheless provided Beech Aircraft with an opportunity to discreetly but actively lobby in both the US House of Representatives and the Senate for the applications to be considered favorably. In March 1982, as discussed, the Reagan Administration amended the export regulations vis-à-vis South Africa with considerable concessions in the supply of medical equipment and non-military aircraft to that country. Shortly after the new export regulations were announced, Beech Aircraft applied pressure for its application to be approved, and was joined by Piper Aircraft Corporation. The two aircraft manufacturers competed for the sale of six twin-engine turboprop aircraft to the South African Air Force for use as air ambulances, valued at \$12 million. Although the revised regulations maintained the ban on sales of aircraft and helicopters for military, paramilitary or police use, the Departments of State and Commerce indicated that they were considering granting the licenses for the sale under the new exemption that allowed the sale of medical equipment.⁷⁰

69. R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 152; S. Landgren, *Embargo disimplemented: South Africa's military industry*, p. 206.

70. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Memorandum* from South African Ambassador, Washington, D.C. to Armscor, 21 April 1982; R. Kramer, Proposed aircraft sales to S. Africa tests new U.S. trade policy, *The Washington Post*, 16 March 1982, p. A20.

The sentiment of the Departments of State and Commerce was not shared by some other members of the US Congress. A member of the House of Representatives, Howard Wolpe, for example felt that the sale should not be approved on the grounds of the old argument that the aircraft could be utilized for military purposes. He argued that the notion placed on the table by the mentioned Departments that the aircraft did not have military utility was simply a very deceptive proposition, as they were designed to help the military and the sale would be to the South African military, who would not hesitate to use it for military purposes.⁷¹

Wolpe also chaired the House of Representatives Subcommittee on Africa. In the Subcommittees' Hearing on 30 March, which was already mentioned in Section 4.6.1, the question was raised whether the US had developed any policy of monitoring to ensure that the aircraft did not fall into the hands of the South African military or police to be utilized for purposes other than that for which the licenses were granted, i.e. ambulance aircraft. Apparently, the US Air Force aircraft that was used in the spy plane incident in April 1979 was the same model of aircraft as the air ambulances that the Reagan Administration was contemplating selling to South Africa. The Department of State representative, Dan Simpson, had no choice other than to admit that it was the same type of aircraft, which could be configured from a passenger aircraft to an air ambulance and vice versa. He immediately added that the aircraft was of a type regularly sold to South African civilian end-users with the appropriate assurance that it would not be utilized for military purposes. The Subcommittee was not at all satisfied with the answer, because the Department of State could give no assurance whatsoever that although an end-user had signed a statement that the aircraft will not be utilized for military or police use, there existed no monitoring mechanism to ensure that it did not happen.⁷²

The Subcommittee's concern was not in vain, as could be gathered from a secret memorandum from the South African Ambassador in the US, Donald Sole, to Armscor on 21 April 1982. Sole acknowledged that in accordance with the arms embargo, it was

71. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Congressional Record* 128(31), Senate, Resolution on export control regulations for the Middle East and South Africa, 24 March 1982.

72. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01374: *Hearing* on Enforcement of the United States arms embargo against South Africa before the Subcommittee on Africa of the Committee on Foreign Affairs, House of Representatives, 30 March 1982, pp. 21-22.

not possible for the US Government to supply the SADF with aircraft for any use other than humanitarian, as that would be in violation of the United Nations arms embargo against South Africa. Nonetheless, he viewed the amended export control regulations as paving the way for the Reagan Administration justifying to the US Congress that the sale of ambulance aircraft was permitted. In Sole's view, a positive decision on the application for export licenses for specialized ambulance aircraft would enable the South African Government to pressurize the Reagan Administration for further relaxations, especially since the Reagan Administration had declared it as part of its policy to normalize relations between the US and South Africa. But Sole had an even more important statement to make. He said that it had come to his attention that Beech Aircraft Corporation at least, possibly along with other US aircraft manufacturers, were studying with interest the specifications of the SADF with regard to the aircraft they would like to acquire from foreign sources. According to the printed specifications, the SADF required that the aircraft be capable of operating as Very Important Person (VIP) and Important Person (IP) transport, in a communications role and as air ambulance. In other words, the aircraft had to be convertible between transport, communications and ambulance roles.⁷³

In September 1982, the Reagan Administration further modified the export regulations for South Africa by placing air ambulances under the exception for medical equipment, as discussed in Section 4.4. Under these new regulations, the export of six Beechcraft Super King 200C aircraft to the South African Air Force as air ambulances were finally approved in late 1982.⁷⁴ As one can imagine, to anti-apartheid activists this served as another example of the Reagan Administration's disregard for the arms embargo and efforts to act more lenient towards South Africa. Their dissatisfaction was further fuelled when it became known in late 1982 that the South African Government had supplied two homelands within South Africa, Bophuthatswana and Ciskei, with light aircraft that were transshipped from the US via Israel. Bophuthatswana received US-manufactured Helio-Courier aircraft and the Ciskei security forces received light aircraft

73. Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Memorandum* from South African Ambassador, Washington, D.C. to Armscor, 21 April 1982.

74. P. Lyman, U.S. export policy toward South Africa: Statement before the Subcommittees on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 29; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

from the US-based Mooney Company.⁷⁵ As the homelands were established under the South African Government's apartheid policy, the sales were viewed widely as a blatant violation of the arms embargo.

One example of the Reagan Administration refusing to sell aircraft to the South African Government occurred in 1984, after the South African Government had announced its intention to ground its seven aged Schackleton naval reconnaissance aircraft by the end of that year. It threatened to stop supplying the US with maritime and naval traffic information around South Africa if an application for the sale of eight Nimrod, Atlantic or Orion aircraft to South Africa were refused. The Reagan Administration however was not ruffled by the threat and merely states that it was unlikely that South Africa would be able to obtain any of the mentioned aircraft.⁷⁶

4.6.3 ELECTRONICS

In September 1982, the Reagan Administration had to tread water when its new regulations threatened to engulf them after the sale and shipment of 2,500 high voltage batons to South Africa became known. It was manufactured by a company called the Universal Safety Corporation based in Largo, Florida and distributed to South Africa by a firm called American International Marketing, based in New Jersey. The license for the sale to a private South African firm was approved in April 1982, shortly after the Reagan Administration announced the new export regulations vis-à-vis South Africa. According to the South African newspaper *The Natal Mercury* the South Africa recipient had confirmed that he as well as the manufacturers were fully aware of the arms embargo prohibiting the sale of shock batons to South Africa. However, the batons were being exported out of the US as cattle prods, and therefore qualified for export.⁷⁷

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75. J.P. McWilliams, *Armcor: South Africa's arms merchant*, p. 34; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 147.
76. Armcor Archives (Pretoria), Sanctions and Arms Embargoes, Box 1, File 2: **Statement** by Abdul Samad Minty, Director of the World Campaign against Military and Nuclear Collaboration with South Africa before the Security Council Arms Embargo Committee, 9 April 1984.
77. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01471: **Telegram**: United States Consul, Durban to Secretary of State, 27 January 1983; Anonymous, High-voltage batons sent to South Africa, *The New York Times*, 21 September 1982, p. A5; M. Rothschild, Apartheid's baton twirlers, *The Progressive*, 16 February 1983, p. 17; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

The sale raised a storm because the batons, similar to cattle prods, were specifically designed for police use. Each baton was about thirteen inches long and gave a 3,500 (some sources say 6,000) volt shock to anyone touched by it. When the sale became known, a Congressional outburst followed. Howard Wolpe, the chairperson of the House of Representatives Subcommittee on Africa accused the Department of Commerce of contravening the human rights provision of the US law. He said that according to the US Foreign Assistance Act, licenses for the export of crime control and detection instruments and equipment to a country whose government engaged in a consistent pattern of human rights violations, might not be issued. Another member of the House of Representatives, Charles Rangel, introduced a resolution with seventy-seven co-sponsors, which condemned the Department of Commerce for what they regarded a clear contravention of US law.⁷⁸

The Department of Commerce in response to the outcry said that it did not intend to grant the license, but due to a clerical oversight the license was approved. Apparently, it was a clerical oversight due to the fact that the batons were not listed as weapons in control regulations and were sold to a private firm, not the South African police. The exporters claimed that the South African firm intended to resell the batons to private security firms. The Department of Commerce furthermore contended that the sale was legal because South Africa was not listed by the Department of State as a gross violator of human rights. In defense, the Department of State replied that if consulted, it would have opposed the license. These explanations however did not bide well with many in the US. The sale was widely regarded as the latest in a series of moves by the Reagan Administration to facilitate exports of military and strategic goods to South Africa as part of its approach of constructive engagement.⁷⁹

78. Anonymous, High-voltage batons sent to South Africa, *The New York Times*, 21 September 1982, p. A5; M. Rothschild, Apartheid's baton twirlers, *The Progressive*, 16 February 1983, p. 17; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

79. Anonymous, High-voltage batons sent to South Africa, *The New York Times*, 21 September 1982, p. A5; M. Rothschild, Apartheid's baton twirlers, *The Progressive*, 16 February 1983, p. 17; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 149.

4.6.4 COMPUTERS

The Washington Post voiced the first major concern about computer exports to South Africa under the Reagan Administration in July 1981. According to the report, South Africa was developing an air-to-air missile similar to the US Sidewinder, which was guided by a US-produced computer. The Secretary of State at the time, Alexander Haig, was questioned about the report by ACOA, but the only reply they received was that the very few details in the report made investigation of the case very difficult. Thereafter, no further word was spoken on the issue nor were there any prosecution or investigation. It only became clear in 1984 that South Africa was producing and exporting the so-called Kukri air-to-air missile that conformed to the US Sidewinder Aero 3B. This was confirmed by a report by the International Institute for Strategic Studies in their publication *Military Balance*, which stated that South Africa possessed Sidewinder air-to-air missiles.⁸⁰ This raised questions on how South Africa obtained the technology to manufacture the Kukri missile as well as the computer technology to guide it.

One answer to the above question might lie in US computer exports to the Armscor subsidiary Atlas and the South African CSIR, which conducted a wide range of research for the South African Government in areas like ordinance development, guided missiles, specialty metals, nuclear research and many other military areas. This was due to the fact that computer-related exports to South Africa that were previously stalled, got the go-ahead in 1982 under the new arms embargo regulations vis-à-vis South Africa announced by the Reagan Administration in March of that year. The decisions provoked lengthy debate within the Reagan Administration, with the Department of Commerce advocating looser controls and the Department of State holding out for the maintaining of certain restrictions. Nonetheless, the following sales were approved: a Sperry Univac 1182 computer to the Armscor subsidiary Atlas Aircraft corporation, an IBM 5341 computer as well as a Data General MV/8000 to the Barlow Rand Group, which had close ties with Armscor, and another Data General MV/8000 computer for the National Institute for Telecommunications Research, which was a branch of the government-controlled CSIR. Initially, the Department of State opposed the Sperry sale to Atlas, while the Department of Commerce backed it. In the end, an omission in the arms

80. C. Murphy, Embargo spurs S. Africa to build weapons industry, *The Washington Post*, 7 July 1981, p. A12; R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, pp. 2-3.

export regulations turned the decision in favor of the sale: sales to Armscor as the government-controlled arms manufacturer were prohibited, but there was no mention of a prohibition on sales to its eleven subsidiaries, including Atlas Aircraft Corporation. Another factor that swung the decision was when the Department of State discovered that the computer was already in South Africa and that they were therefore faced with a *fait accompli*. They had no choice but to reach a compromise agreement, namely the manufacturer had to certify that Atlas would only use the computer for inventory maintenance and not for the development of any kind of military capability, and an on-site inspection by both Sperry and the US Embassy in South Africa would be undertaken.⁸¹

Another license for a powerful Cyber 170/750 computer to the CSIR was initially delayed by questions within the US military establishment about the effects of selling such a system to South Africa, as with proper programming it could have compromised US cryptographic secrets and nuclear non-proliferation goals. In other words, the computer had amazing code-breaking capabilities. The application for a license was referred to the US Sub-Group on Nuclear Export Coordination, which represented the Departments of Defense, Energy, Commerce and State. From the South African side, both the president and vice-president of the CSIR tried to speed up approval of the sale by personally assuring the Departments of Commerce and State that the computer would be used exclusively for purposes approved by the US. The sale was eventually approved, as well as the sale of another powerful computer called the Amdahl 470/V7, which also had military capabilities.⁸²

Another example of a sophisticated computer with military use capabilities that was exported to South Africa, was one supplied by a British company called Plessey. It was a combined civil and military radar air controlled system for which South African military personnel received training in Britain to operate it. The system included a Digital Equipment computer originating from the US. The system allowed South Africa to monitor aircraft in neighboring countries and to guide its own aircraft on offensive

81. R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, p. 3; R. Kramer, Proposed aircraft sales to S. Africa tests new U.S. trade policy, *The Washington Post*, 16 March 1982, p. A20; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157; F.J. Parker, *South Africa: Lost Opportunities*, pp. 147-148.

82. R. Kramer, Proposed aircraft sales to S. Africa tests new U.S. trade policy, *The Washington Post*, 16 March 1982, p. A20; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 157.

missions in the Southern African region.⁸³ Still another British company, International Computers Ltd., was fined \$15,000 in March 1982 for violating the US arms embargo by supplying US-manufactured computer disk drives in two computer systems shipped to South Africa in 1978.⁸⁴

In November 1983, an uproar from arms embargo activists resounded when it came to light that South Africa had attempted to smuggle a US-origin VAX computer, useful for conducting nuclear weapon tests and tracking cruise missiles, to the Soviet Union. According to the US Secretary of Defense, Caspar Weinberger, the computer was identical to a number of highly classified US systems and could be used to produce faster, more accurate and more destructive weapons. Certain parts of the computer were confiscated in West Germany, while the rest were eventually confiscated in Sweden. An investigation was immediately launched to establish how this military computer system, which should have been forbidden for export under the arms embargo, came to be exported to South Africa, and how many had in fact been acquired by South Africa and for what purpose. It was found that one computer was sold to a private company in South Africa, who rerouted it to the Soviet Union.⁸⁵

By 1984, it was an accepted fact that computers were rapidly becoming the mainstay of technologically sophisticated weapons systems. South Africa in 1984 alone received \$185 million worth of computers and related software, which were more than all other countries' exports to South African combined. In 1985, a publication called the *South African Computer User's Handbook* stated that direct sales of US computers to South African arms manufacturers had persisted despite the arms embargo. In addition to the above-mentioned cases, the Handbook also stated that Mohawk Data systems equipment was used by Kentron, an Armscor subsidiary responsible for the production of guided missiles, as well as Eloptro, which specialized in military electro-optics, and Somchem, which was responsible for outfitting the SADF with propellants and

83. R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 159.

84. Anonymous, U.S. fines British unit, *The New York Times*, 4 March 1982, p. D14.

85. Armscor Archives (Pretoria): Sanctions and Arms Embargoes, Box 9: **Report**, International Seminar on the United Nations arms embargo against South Africa, 28 – 30 May 1986, p. 9; Box 1, File 2: **Statement** by Abdul Samad Minty, Director of the World Campaign against Military and Nuclear Collaboration with South Africa before the Security Council Arms Embargo Committee, 9 April 1984; R. Paretzky, The United States arms embargo against South Africa: An analysis of the laws, regulations and loopholes, *Yale Journal of International Law* 12(1), Winter 1987, p. 145.

explosives. Naschem, another subsidiary of Armscor was listed as using a Hewlett-Packard Company computer in 1982.⁸⁶

4.6.5 US NUCLEAR COOPERATION WITH SOUTH AFRICA

As discussed in the previous chapter, the Vela satellite incident in 1979 raised suspicions that South Africa had embarked on a nuclear weapons program. Already in late 1980, reports in the *The Washington Post* indicated that South Africa had taken significant steps in military-related nuclear-weapons research and that it had perfected a split-nozzle gaseous diffusion system by which nuclear bomb-quality uranium, uranium-235, was extracted from uranium ore.⁸⁷

In early 1981, when the Reagan Administration took office, a statement by the South African Government stirred further suspicions in this regard. In the statement, the South African Government claimed that it had developed the capability to produce enriched uranium fuel elements, i.e. produce uranium-235 from uranium ore. In April 1981, the South African Government announced that it had started to use 45% enriched uranium fuel, enriched from South African made fuel elements, in its Safari I nuclear research reactor. Adding to the statement, the chairman of the South African Atomic Energy Board, Wynand de Villiers, said that 45 percent enriched uranium could be used to make a nuclear bomb, although it would be a clumsy bomb. Weapons-grade uranium was usually enriched to more than 90 percent. Despite this, the Reagan Administration from the onset sought closer nuclear collaboration with South Africa. In fact, already in May 1981 the South African Secretary of Foreign Affairs, Brand Fourie, visited the US to discuss nuclear cooperation with US Assistant Secretary James Malone. A few months later, in August 1981, a team of South African nuclear experts toured a US uranium enrichment plant under construction in Portsmouth, Ohio. In October 1981, a team of top US nuclear experts toured South Africa's uranium nuclear plant at Valindaba as part

86. J.P. McWilliams, *Armscor: South Africa's arms merchant*, pp. 32, 35; *South African Computer User's Handbook*, p. 32.

87. C. Murphy, S. Africa powers reactor with Uranium it enriched, *The Washington Post*, 30 April 1981, p. A1.

of a discussion to reach a compromise solution of the nuclear dispute between the two countries caused by the US' refusal of nuclear fuel supplies.⁸⁸

A matter of concern to some members of the US Congress was South Africa's efforts to obtain fuel to start up the Koeberg nuclear station. It turned out to be a difficult issue due to contracts concluded between the Electricity Supply Commission of South Africa (ESCOM), which was to operate the two reactors at Koeberg, and the predecessor to the US Department of Energy on 16 August 1974. The contracts were for the enrichment of South African uranium at US facilities. As a result of the contracts, ESCOM became obligated to deliver natural uranium to the US, while the Department of Energy became obligated to enrich the supplied uranium to approximately 3% or less at its enrichment facility for delivery to ESCOM. However, because the US regarded the South African nuclear activities as being unsafeguarded and therefore in violation of US law, export licenses were refused until all South African nuclear activities were subjected to IAEA safeguards and South Africa adhered to the Nuclear Non-proliferation Treaty. Despite this fact, the concern was that the Reagan Administration would at some time approve the export of enriched uranium to South Africa, short of the stated requirements of full-scope safeguards and ratification of the Non-proliferation Treaty due to the contractual situation, and that there was no guarantee that the South African Government would not use the fuel at its Pelindaba facility for the manufacturing of nuclear weapons.⁸⁹

In November 1981, the Koeberg fuel issue took a dramatic turn when a French company involved in the construction of the Koeberg plant, Framatome, announced that the enriched fuel needed to start up the plant would be loaded into fuel rods that were to be shipped to South Africa. It amounted to almost 100 tons of enriched uranium. The US Department of State was furious upon learning about the transaction, as it meant that the US had lost its bargaining power in getting South Africa to sign the Nuclear Non-proliferation Treaty and agree to international inspection of its nuclear installations in

88. F.J. Parker, *South Africa: Lost Opportunities*, pp. 151-152; C. Murphy, S. Africa powers reactor with Uranium it enriched, *The Washington Post*, 30 April 1981, p. A1; United Nations Center Against Apartheid, International Conference on Sanctions Against South Africa, 20-27 May 1981, *Report* by the Political Commission, p. 22; R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, p. 4; C. Murphy, U.S. nuclear team holds talks in S. Africa, *The Washington Post*, 22 October 1981, p. A32.

89. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, pp. 68-69.

return for enriched fuel. At first it was unclear which country had provided Framatome with the enriched fuel, but in mid-April 1982, it was established that two US firms, Edlow International and SWUCO Inc., had played a key role in South Africa acquiring the enriched fuel. After the South African Government had no luck in obtaining enriched fuel for Koeberg from the US, they made it known that they were desperate enough to pay a premium price for uranium to start up at least one of the Koeberg reactors. The two US firms captured the opportunity through buying excess uranium from Switzerland and Belgium and turning it over to two European firms to be enriched into usable fuel. The title to this usable fuel was then sold to South Africa. However, despite an outcry, the deal was not illegal, as there were no US laws that even required the firms to report the deal to the Department of State. They merely acted as brokers, bringing buyers and sellers together. To add more salt to the Department of State's wounds, ESCOM made it known after the sale that it had purchased more fuel than it actually needed because South Africa's uranium enrichment plant was scheduled to start producing enriched fuel soon. Therefore, 3,000 pounds of the uranium bought through Edlow would be sold to the US, who would then enrich it and sell it to Japan.⁹⁰

In contradiction to its voiced irritation with the Framatome issue, the US Department of Commerce announced in early 1982 that the Reagan Administration would permit the export of some nuclear-related items to South Africa. This included five licenses for specific items that had already been approved in the first year of the Reagan Administration, i.e. vibration test equipment that could be used to test warheads, ballistic re-entry vehicles, a Cyber 170-750 computer capable of modeling a nuclear test site, 95 grams of Helium 3, which could be used to manufacture the substance Tritium for thermo-nuclear weapons, and a hydrogen re-combiner for the Koeberg nuclear power plant. The sale of the Helium 3, together with the sale of a hot isostatic press that could be used for making vital components for nuclear weapons, were initially held up due to congressional pressure, but was eventually approved in late 1982. The export of the hydrogen recombiner was approved because it could only be used at Koeberg to meet

90. C. Murphy, S. Africa skirts U.S. efforts to bar nuclear fuel supply, *The Washington Post*, 13 November 1981, p. A1; F.J. Parker, *South Africa: Lost Opportunities*, pp. 153-154; T. O'Toole, U.S. firms help South Africa get Uranium, *The Washington Post*, 13 April 1982, p. A5.

health and safety objectives that were identified in an investigation into an accident in the US Three Mile Island reactor some years before.⁹¹

Also in early 1982, the issue of nuclear projectiles for the 155mm G-5 artillery system that South Africa had developed from blueprints obtained from Space Research Corporation during the Carter Administration⁹² once again surfaced. According to an intelligence cable, the Chairman of the Armscor Board of Directors, Commandant Marais, had said in a press conference that the new G-6 high mobility self-propelled 155 mm gun that Armscor was developing from the G-5, would be in full production within four years and would be able to fire a nuclear round if necessary. However, he quickly added that Armscor had never concerned itself with the development of nuclear warheads and that the South African Government had never and did not intend in future to develop the G-5 and G-6 systems for that purpose. The issue nonetheless raised concern in the US, as the development of the G-6 was regarded as the direct outcome of a gross violation of the arms embargo.⁹³

Due to the concerns raised, proposed Bill H.R. 7220 was placed before the House of Representatives in late 1982. The bill would have prohibited the export or transfer of nuclear material, equipment and technology to South Africa. The Reagan Administration strongly opposed the bill, because it felt that enactment thereof would significantly undermine important US nonproliferation objectives. Passage of the bill would eliminate any chance of influencing South Africa to accept full-scope safeguards. Furthermore, the US Atomic Energy Act effectively precluded significant nuclear commerce with South Africa. The only effect of the bill would therefore be to preclude export of dual-use or nuclear-related items or non-sensitive nuclear technology that was in any case widely available from non-US suppliers. Passage of the bill would only result in the transfer of trade and work from US companies to foreign firms eager and willing to supply such commodities to whoever requested it. Finally, the Reagan Administration

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91. Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9: *Report*, International Seminar on the United Nations arms embargo against South Africa, 28 – 30 May 1986, p. 9; H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 67; R. Leonard, *South Africa at war: White power and the crisis in Southern Africa*, p. 158; F.J. Parker, *South Africa: Lost Opportunities*, pp. 154-155.
92. See Chapter 3, Section 3.5.2.3, p. 152.
93. South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01429: *Cable*: United States Defense Attaché South Africa to Defense Intelligence Agency, Washington, D.C., 13 September 1982.

emphasized that US dual-use exports to South African nuclear end-users had been carefully conditioned upon receipt of assurances regarding end-use, no retransfer, and inspection rights, when appropriate. Should the bill be passed, there was a strong likelihood that non-US suppliers would provide these commodities to South Africa without such requirements.⁹⁴

After numerous voices were raised about the apparent closer nuclear cooperation between the Reagan Administration and South Africa, the US Department of State issued a statement in December 1982 in order to explain the Reagan Administration's nuclear policy vis-à-vis South Africa. According to the statement, the policy was executed within the framework of a strong nuclear non-proliferation policy announced in 1981, supported by a foundation of effective export controls. The Department of State categorically stated on more than one occasion that until South Africa accepted full-scope IAEA safeguards and undertook other steps to meet the requirements of US law, no export to South Africa would be made of uranium fuel or any nuclear equipment licensed by the NRC. However, despite this policy of denial, the Reagan Administration felt the approval of exports of a few carefully selected non-sensitive, nuclear-related commodities or dual use items could assist the US in maintaining a dialogue with South Africa regarding non-proliferation issues and objectives, thereby making a contribution to the US' non-proliferation efforts. The Department of State nonetheless reiterated that the approval of this narrow range of non-sensitive exports was subject to careful case-by-case interagency review.⁹⁵

The US Department of State was the heart of the nuclear export review process – under the Atomic Energy Act, it was responsible for the preparation, coordination and transmittal to the NRC of executive branch views on applications for NRC export licenses. Also under the Atomic Energy Act, the concurrence of the Department of State was required for approval of transactions such as re-transfers abroad of US-origin spent nuclear fuel for re-processing or the conclusion of an enrichment contract with a foreign country authorized by the Department of Energy. Department of State concurrence was furthermore needed for nuclear technology transfers approved by the

94. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 69.

95. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 66.

Secretary of Energy pursuant to the AEA and for approvals of Department of Commerce licenses for export of nuclear-related and dual-use commodities.⁹⁶

All Department of Commerce export license applications for items that had any actual or potential nuclear-related use were reviewed by the Department of Energy. When the end use or nature of the items in question made the lack of any proliferation significance clear, the license applications were referred back to the Department of Commerce for licensing action. In cases where it was clear that an item would present a proliferation concern, or where export would be contrary to US policy, denial was recommended and the cases referred to the Subgroup on Nuclear Export Coordination (SNEC), which was established in 1977 as a subgroup of the US National Security Council (NSC) ad hoc group on nuclear nonproliferation. In reviewing license applications for exports of items with possible proliferation concern, the SNEC took into account factors like past practice concerning supply of the commodity in question to the intended recipient country and end-user; equivalent commodities already in the recipient country and available to the end-user; foreign availability of the commodity; intelligence information regarding activities of proliferation concern in the recipient country; technical capabilities and significance of the commodity to be exported; foreign policy considerations; and lastly applicable statutory data. If SNEC determined that the proposed export involved significant proliferation risk, a recommendation for denial of export would be made to the licensing agency. If all the participating review agencies were unable to reach agreement on the disposition of a particular export application to SNEC, the matter could be referred to the NSC, the Cabinet or even the President.⁹⁷

While proposed Bill H.R. 7220 was discussed right through 1983, a request from seven companies to provide an estimated \$50 million worth of technical and maintenance services for the South African Koeberg nuclear plant was approved by the Department of Commerce in September 1983. Thirty members of the US Congress recommended against approval of the export licenses in the light of the pending passage of H.R. 7220 in October 1983. The group also protested that approval of the licenses would impair US interests in black Africa, who could regard the step as US indifference to the military

96. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, p. 66.

97. H.R. Marshall, Jr., U.S. nuclear policy toward South Africa: Statement before the Subcommittee on Africa and on International Economic Policy and Trade of the House Foreign Affairs Committee on 2 December 1982, *Department of State Bulletin*, May 1983, pp. 66-67.

aggression of South Africa in the Southern African region. The Department of State however rejected the arguments, using the old argument of the requested services being readily available to South Africa from other nuclear suppliers. It also said that the exports did not involve the transfer of classified or sensitive information, and therefore represented no proliferation risk. In November 1983, it was announced that the US company Mobil Oil was appointed as the exclusive supplier of lubricants to the Koeberg generators.⁹⁸

In January 1984, the Reagan Administration announced in triumph that the chairman of the Atomic Energy Corporation of South Africa had announced that the South African Government would conduct and administer its external nuclear affairs in a manner that was in line with the spirit, principles and goals of the Nuclear Non-proliferation Treaty and the nuclear supplier's group guidelines. The South African Government stated that it would only transfer nuclear material, equipment and technology identified in a so-called trigger list of the nuclear suppliers' group guidelines if the recipient country agreed to place such material, equipment or technology under the safeguards of the IAEA and have assurances that such items would only be used for peaceful and non-explosive purposes. The South African Government also indicated that it was prepared to resume discussions with the IAEA to place the semi-commercial uranium enrichment plant that it was busy constructing, under IAEA safeguards. The US was invited to resume discussions on the technical aspects of the application of safeguards on such an enrichment facility.⁹⁹

After the South African announcement, the US Department of State issued a statement saying that the Reagan Administration believed the announcement represented an important step by the South African Government, as the actions announced were consistent with efforts by the United Nations and other governments to develop a common nuclear supply policy in the interests of limiting the proliferation and spread of nuclear weapons. Furthermore, the resumption of South African negotiations with the IAEA offered the potential of extending the scope of IAEA safeguards to a large, sensitive nuclear facility, and the Reagan Administration had agreed to resume technical

98. Anonymous, U.S. firms get OK for nuclear sale to S. Africa, *Los Angeles Times*, 27 September 1983, p. 12; Armscor Archives (Pretoria), Sanctions and Arms Embargoes, Box 9, *Report*, International Seminar on the United Nations arms embargo against South Africa, 28 – 30 May 1986, p. 9; R. Knight, Constructive Engagement and the Arms Embargo, *ACOA News*, 3 April 1984, p. 4.

99. Department of State, Department statement on 31 January 1984 on South Africa: Nuclear Safeguards and Exports Announcement, *Department of State Bulletin*, March 1984, p. 57.

discussions with the South African Government on the technical aspects of such safeguards. However, the South African Government still had not agreed to adhere to the Nuclear Non-proliferation Treaty or to place all its other facilities under IAEA safeguards. The US would therefore continue to make clear to the South African Government that such a step was most desirable.¹⁰⁰

4.6.6 SMUGGLING CASES

The Reagan Administration's enforcement of the arms embargo was tested early into its administration with several arms smuggling cases that surfaced. Arrests were made in two cases by the US Customs Service, the first being an attempt to supply South Africa with Bell UH-1 military helicopters and the second an attempt to export small arms to South Africa.¹⁰¹

4.6.6.1 Bell UH-1 military helicopters

In April 1981, arms trafficking in New York City, New York, came under the increasing scrutiny of US law-enforcement officials as a result of a five-month investigation by the US Customs Service into illegal plots to smuggle helicopter gunships to South Africa. It was an undercover investigation in which no South Africans were involved. Rather, it was executed in an effort to show how New York City had become a center of illegal trafficking in weapons and military equipment, mainly because of the city's strategic location.¹⁰² Although South Africans were not involved in the fake transaction, the investigation was an eye-opener to the Reagan Administration about the willingness of arms traffickers to supply South Africa with military equipment in violation of the arms embargo and US export-control laws in this regard.

The US Customs investigation into illegal conspiracies to smuggle Bell UH-1 helicopter gunships to South Africa was concluded in April 1981. The main elements in the undercover investigation involved seven helicopters, two fake South African intelligence

100. Department of State, Department statement on 31 January 1984 on South Africa: Nuclear Safeguards and Exports Announcement, *Department of State Bulletin*, March 1984, p. 57; South Africa: The making of United States policy, 1962 - 1989, microfiche collection: National Security Files, fiche 01795: **Statement** by C.A. Crocker before the Subcommittee on Africa of the House Foreign Affairs Committee, 17 April 1985.

101. R. Leonard, *South Africa at War: White power and the crisis in Southern Africa*, p. 156.

102. Anonymous, News summary, *The New York Times*, 21 July 1981, p. B1.

officers, an informant who knew several suspected arms dealers, and a bait of \$2 million for smuggling the helicopters into South Africa. The investigation initially started as one case in 1980, but it soon blossomed into two other conspiracies. An informant started cooperating with the Customs Services in exchange for possible leniency in several criminal cases against him. The informant chose to stay anonymous in fear of his life. The informant told the Customs Service that an illicit arms dealer in New York had told him that Sky Control Inc., an aviation sales company in Sun Valley, California, had surplus military helicopters for sale. The informant then contacted Jack Holiday, the owner of Sky Control, with false information that South African Government representatives seeking to buy military helicopters were in New York. A meeting was arranged between Holiday and the informant, who described himself as a lawyer for South African intelligence officers secretly in the US to purchase military supplies, as well as an official of the Customs Service masquerading as a South African intelligence officer.¹⁰³

At the meeting and in later telephone conversations, Holiday agreed to sell, presumably to South Africa, seven unarmed Augusta Bell UH-1 helicopters, which could be equipped with guns, as well as spare parts for \$2.2 million. This agreement was reached in spite of the fact that the Customs Service agent masquerading as a South African officer told Holiday that the latter would have to ship the helicopters to South Africa in violation of the arms-control law, which require an End-User Certificate from the US Department of State, i.e. an export permit specifying that the military equipment was not exported to a prohibited country. Holiday accordingly agreed to a false export permit stating that the helicopters would be delivered to a company in Sumatra, Indonesia, as equipment to ferry personnel and logging equipment.¹⁰⁴

After the above phony agreement, the informant introduced the undercover Customs Service agents to two other persons whom he described as illegal arms traffickers. On 23 September 1980, one of them, Gideon Schiff, met with the informant and the undercover Customs agent. Schiff held Canadian and Israeli citizenship. The undercover Customs agent told Schiff that he had seven helicopters stored in California, which he wanted transported illegally to South Africa. Schiff agreed to smuggle the helicopters to

103. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

104. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

South Africa for \$500,000. This he would have done by filing a false export declaration that would describe the helicopters as machine parts consigned to Switzerland and Portugal. After the agreement, Schiff was shown fake bank certificates of deposit as proof of the informant and undercover agent's ability to pay him. On 19 December 1980, the unsuspecting Schiff met the undercover Customs agent for the transfer of \$250,000 down payment for the deal. When Schiff was asked whether he was sure that he could get the helicopters to South Africa, even though it was illegal, he gave the assurance that there wasn't anything to worry about, as he had done it before. On this note, Schiff was arrested.¹⁰⁵

Another person who was approached for 'delivery' of the helicopters was Omar Aly Khan, an engineer who was born in India and held British citizenship. The informant, again representing himself as a lawyer for South African military supplies purchasers, introduced Khan to the undercover Customs agent in September 1980. Khan favored meetings at various hotels in New York, where it was discussed how the helicopters could be smuggled from Los Angeles to South Africa. The conversations were secretly taped, and after three meetings, Khan agreed to arrange the shipment for a price of \$2 million. He was arrested on 17 December 1980 when he received a \$5,000 payment from the undercover Customs agent.¹⁰⁶

The meeting and resultant telephonic conversations with Holiday were also secretly taped by the Customs Service agents and the informant and used in the resultant court case against Holiday. In December 1980, the Customs Service confiscated the helicopters in California, and in April and May 1981, criminal accusations were filed against Sky Control Inc. in the US Federal Court and against Holiday in the State court. Holiday pleaded guilty, on behalf of Sky Control Inc., to charges of conspiracy to violate export-control laws by efforts to arrange a false or cover sales agreement. The company was fined \$5,000. Holiday also pleaded guilty in the State court to a misdemeanor count of conspiracy and was given a suspended sentence. Schiff pleaded guilty in the Federal Court in Manhattan to conspiracy to violate the US export-control laws, and on 1 May 1981 was placed on probation for one year. Khan also pleaded guilty to charges

105. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

106. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1.

of conspiracy to violate the export-control laws and was sentenced in April 1981 to four years probation.¹⁰⁷

4.6.6.2 The Towers and Parks case

In another case, two British arms brokers, Peter Towers and John Parks, were arrested at the Houston, Texas International Airport in May 1981. The indictment against them before a US district court in Houston was extensive. They were accused of conspiring willfully and knowingly to export items on the US Munitions List from the US to South Africa during the period of 22 April 1981 to 12 May 1981, without obtaining a license for such export from the Department of State. The conspiracy aimed at exporting approximately 1,100 M-16 automatic rifles, 100 grenade launchers, 150 pistols and 15,000 plastic M-16 magazines from the US to South Africa. They knowingly and willfully made false, fictitious and fraudulent statements resulting in an end-user certificate indicating that the arms and ammunition were destined for the Sudan. However, what they did not know was that the US Customs Service received information from a former Border Patrol agent that he had seen a false end-use certificate showing that weapons purchased from Colt Industries of Hartford, Connecticut were bound for Sudan in East Africa. As a result of the information, the Customs Service launched an investigation into the matter. Undercover Customs agents posed as arms dealers and met with Towers and Parks in the US. Towers and Parks also met with two legitimate arms dealers cooperating with the Customs Service, and presented a fraudulent end-user certificate, a purchase letter and a credit letter to the amount of \$1,3 million. The purchase and credit letters indicated that the firearms were indeed purchased from Colt Industries. (This was the second time that Colt Firearms was involved in an arms smuggling case vis-à-vis South Africa¹⁰⁸). Accordingly, the Customs Service also asked Colt Industries for their cooperation in the investigation, to which it agreed.¹⁰⁹

107. S. Raab, Inquiry in smuggling finds New York role in arms trafficking, *The New York Times*, 21 July 1981, p. A1; Anonymous, Company fined in copter scheme, *The New York Times*, 23 July 1981, p. B3.

108. See Chapter 3, Section 3.5.2.1, p. 147.

109. B. Randy, U.S. customs seizes arms headed for South Africa, *The Christian Science Monitor*, 14 May 1981, p. 1; Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: *Indictment*, United States of America vs. Peter Towers and John Parks, 9 June 1982, pp. 1-2; File 1/17/1, Volume 5, *Summary* of the case against Peter Towers and John Parks, 9 June 1982, pp. 1-2; Anonymous, U.S. seizes Austrian jet and arms, *The New York Times*, 13 May 1981, p. A18; Anonymous, Agents arrest 6 in \$1.2 million Houston arms sale, *The New York Times*, 14 May 1981, p. A22.

After the transaction with the undercover agents, Towers and Parks traveled from London to Houston to await the arrival of a truck loaded with the arms and ammunition from Colt Industries. The latter had, in cooperation with the Customs Service, packed the weapons in shipping crates to be transported by undercover Customs agents from Hartford, Connecticut to Houston, Texas. Towers and Parks had arranged for a Boeing 707 of Montana Austria Airlines to take on the cargo at Houston airport for export to South Africa, with a fraudulent flight plan showing a route from Houston to Khartoum in the Sudan, but with the plan to divert the aircraft in mid-air to South Africa. It later became clear that a further part of the conspiracy detailed that one of the accused would cause the flight plan to be further altered to show a route from Houston to Johannesburg with a cargo of steel fabricates. On 12 May, after the arrival of the truck, Towers, Parks and four crew members of Montana Austria Airlines attempted to load the arms on the Montana Austria aircraft, and were arrested by about two dozen Customs agents acting as the truck drivers and air terminal ground crewman. The cargo as well as the jet was seized.¹¹⁰

In the ensuing court case, the four Austrian crewmembers were released after it was found that they were merely manning a hired flight and had no plans to transgress US law. The aircraft was also returned to its owners. Towers and Parks pleaded guilty to charges that they had falsely claimed to be consultants for a company registered in Lichtenstein and Khartoum, Sudan, and had attempted to export \$1,3 million in arms to South Africa with false documents showing that it was purchased for use in the Sudan. They received a two-year suspended sentence each, were placed on 5 years unsupervised probation and were fined \$100,000 each. They were to pay the fine

110. B. Randy, U.S. customs seizes arms headed for South Africa, *The Christian Science Monitor*, 14 May 1981, p. 1; Armscor Archives (Pretoria): Main Management, Foreign Affairs and Organization, Embargo, File 1/17/1, Volume 5: **Indictment**: United States of America vs. Peter Towers and John Parks, 9 June 1982, pp. 1-2; **Summary** of the case against Peter Towers and John Parks, 9 June 1982, pp. 1-2; Anonymous, U.S. seizes Austrian jet and arms, *The New York Times*, 13 May 1981, p. A18; Anonymous, Agents arrest 6 in \$1.2 million Houston arms sale, *The New York Times*, 14 May 1981, p. A22.

before 16 July 1982, and were prohibited to leave the US until the fine was paid. Twenty-three other counts against them were dismissed as part of a plea agreement.¹¹¹

The Towers/Parks case was a direct violation of the US arms embargo regulations, and was regarded as one of the largest arms busts ever.¹¹² Nonetheless, some would argue that they were sentenced rather lightly. The fact that their court case occurred after the new arms embargo regulations vis-à-vis South Africa were announced in March 1982, resulting in a plea agreement and an arguably light sentence, lead one to conclude that it was but another example of the Reagan Administration's turn towards South Africa. On the other hand, when the discussion of arms embargo violations during the Carter Administration in Chapter 3 is recalled, it is interesting to note that despite its anti-South African rhetoric, the Carter Administration also did not convict arms embargo violators with heavy sentences.

4.6.6.3 Smuggling of electronics warfare secrets

In December 1981, a young US naval electronics materiel officer, Ensign Stephen Baba, was ordered to face a general court-martial on a charge of passing electronics warfare information from his ship to the South African naval attaché at the South African Embassy in Washington, D.C. He was formally accused of mailing three classified documents to the Embassy. One document was a copy of a document called the *Electronics Warfare and Education Quarterly* published by the US Military in May 1980. The other two documents were microfilms containing key word index reports pertaining to electronics warfare. Baba admitted to sending the classified information and the South African Embassy turned the material over on demand to US Government representatives. He was sentenced to eight years hard labor by a Navy court-martial, but because of an unusual secret pre-trial agreement he only had to serve two years less time off for good behavior. He was also dismissed from the US Navy.¹¹³

111. Anonymous, Arms smugglers admit SA connection, *Rand Daily Mail*, 19 May 1982, p. 1; Anonymous, Drie nie aangekla oor wapens, *Die Volksblad*, 20 May 1981, p. 5; Armscor Archives (Pretoria), Main Management, Foreign Affairs and Organization: Embargo, File 1/17/1, Volume 5: *Telegram*, South African Consul-General, Houston to Director-General, Foreign Affairs and Information, 8 July 1982; Anonymous, Two fined on arms charges, *The New York Times*, 9 July 1982, p. D16.

112. Anonymous, Feds get the drop on arms shipment, *The New York Times*, 17 May 1981, p. D4.

113. Anonymous, Navy officer accused of passing data, *Chicago Tribune*, 4 December 1981, p. 5; Anonymous, Around the nation: Ensign said to have sent secrets to South Africans, *The New York Times*, 18 December 1981, p. A18; Anonymous, Navy officer sentenced in security leak, *The Los Angeles Times*, 21 January 1982, p. 7.

4.6.6.4 The MacNay Ltd. case

In June 1985, three British citizens went to trial on charges of conspiring with four South Africans to evade the mandatory arms embargo by setting up a dummy company that bought military components from the US and Britain in the guise of mining equipment, and exporting it to South Africa. The merchandise included components for heat-seeking missiles and a radar-jamming device. It was exported from the US to Britain between 1981 and 1984, with the connivance of four British businessmen, and then routed to South Africa, often by way of West Germany. The South Africans involved in the case set up the dummy company, called MacNay Ltd. The director of the company was a South African named William Metelerkamp. Metelerkamp frequently traveled to Britain and the US during the time mentioned to buy military equipment needed by South Africa. He furthermore used two British companies, Fosse Way Securities and one of its subsidiaries, Hi Tech Engineering Ltd. as suppliers of high-technology equipment purchased mainly from the US. The three mentioned British citizens pleaded innocent in the case but were nonetheless prosecuted. One was a principle person in helping South Africa evade the embargo, while the other two had merely subsidiary roles. The fourth Britton implicated, a director of Fosse Way Securities, earlier pleaded guilty to conspiracy in the case.¹¹⁴ Information on the sentences they received could not be obtained.

4.6.7 MILITARY VEHICLES

In 1981, reports surfaced about the US Eaton Corporation planning to enter into a joint venture with the South African Government's Industrial Development Corporation to set up a gear and axle plant for the manufacturing of components for heavy military trucks. In the same year, it was also reported that two South African companies would be producing axles of the American Rockwell Corporation, with only partial local content.¹¹⁵

114. R. Moseley, Prosecutor: 3 helped S. Africa skirt arms ban, *Chicago Tribune*, 7 June 1985, p. 20.

115. R. Leonard, *South Africa at War*, p. 145.

4.7 CONCLUSION

When Ronald Reagan became the President of the US, it raised South African expectations of a less rigid policy than that of the Carter Administration. This was indeed the case during the first term of the Reagan Administration, i.e. from 1981 to 1984. Many reasons were quoted for this. Among these were the foreign policy crises that had developed in Iran and Afghanistan, which threatened the US' interests in the Middle East and Southwest-Asia and the stability and territorial integrity of the Third World and non-aligned countries, as well as the global balance of power between the the US and the Soviet Union. Once again, as was the case with several US Administrations before Carter, this proved to be an important point in the framing of the Reagan Administration's policy toward South Africa. Reagan would be instrumental in events leading to the fall of the Soviet Union at the end of the 1980's, but before that could happen, the spread of communism in Africa had to be stopped. The South African Government was fiercely anti-communist, and this was a positive point for the Reagan camp. Indeed, as discussed, shortly after Reagan took office as US President, he told reporters that his Administration would place heavy emphasis on countering the spread of communism, and less emphasis on human rights, which played a major role in the foreign policy of the Carter Administration. The emphasis on countering the spread of communism in turn once again raised the question of the strategic importance of South Africa being at the southern point of Africa and its ability to aid in the protection of the sea route around this point. However, the Reagan Administration faced a dilemma in providing open support to South Africa, due to the fact that a mandatory arms embargo was instituted against that country in 1977. The Reagan Administration could not just lift the arms embargo. It would be an extremely miscalculated political step that could result in severe repercussions for the US.

Thus, the Reagan Administration faced the following dilemma: support for South Africa in order to counter the spread of communism versus being bound by a mandatory arms embargo prohibiting military support to that country. This meant that the Reagan Administration had to act slowly and with extreme caution in its support of South Africa. This was done in various ways during the first term of the Administration. Reagan usually did not hesitate to publicly voice his support for South Africa, although cautiously, and usually followed by a reiteration of the US' abhorrence of apartheid. Furthermore, the Reagan Administration adopted a policy called constructive

engagement, which it believed would position the US as a broker between the various opposing parties in the Southern African region. On the one hand, the policy would allow the US to compete with the Soviet Union in the politics of Southern Africa, while on the other hand, pressure through public and diplomatic channels would encourage change in South Africa, while at the same time communicating to people of the US the Reagan Administration's recognition of the unacceptability of the South African policy of apartheid. Constructive engagement however generally ruled out further embargoes or sanctions against South Africa.

Concerning the arms embargo, the Reagan Administration acted very slowly during its first term to make the regulations set by the Carter Administration less rigid. Several relaxations were announced, with the motivation that the regulations set in 1978 by the Carter Administration were so wide that it included items that could have been exported to South Africa without contravening US policy. Indeed, according to the US Department of State, **the new regulations represented a significant but politically less sensitive first phase in what was anticipated to be a consistent process of elimination of trade restraints with South Africa.** This was an open statement of support to South Africa, which elicited severe criticism in many US circles but excitement in especially South African military circles. The South African military establishment interpreted the relaxations as meaning that many import possibilities that were previously excluded, would now be allowed.

Interestingly, although the new regulations set by the Reagan Administration paved the way for increased grey area exports to the South African military establishment or even increased violations of the arms embargo, surprisingly few incidents in this regard occurred. However, especially in the field of computers, several exports raised questions. Although the export of computers and related equipment or software mainly fell within a grey area, there had been several instances of sensitive computer exports which one way or the other landed in the hands of South African firms or institutions involved in military research and development. One often wonders if the Reagan Administration knew about the end users of this equipment, and by concurring with the export thereof, violated the embargo. It was not always clear whether this was the case.