



SANCTIONS AGAINST SOUTH AFRICA (1986)

Dutch settlers, known as Boers, arrived in southern Africa in the seventeenth century, and the British came two hundred years later. At the beginning of the twentieth century, the British conquered the Dutch, and brought the four colonies of Transvaal, the Orange Free State, Cape Colony and Natal into the Union of South Africa in 1910.

By then, all the black Africans in the area had come under white rule, and they faced the usual restrictions imposed by imperial powers on native peoples. But a specific policy of racial separation, known as apartheid, did not begin until 1948, when the strongly nationalist Afrikaners took power under D.F. Malan. In the ensuing years the government passed a number of laws that required blacks to live in designated areas and carry identification papers, and which denied them basic civil liberties and rights.

The United States, like most of the European countries, had paid little attention to apartheid at the time of its inception; moreover, its underlying philosophy was similar to the segregation imposed by law in the southern states. With the rise of the civil rights movement in the United States and the revolt against colonial rule in Asia and Africa, voices were raised within the United States and in the United Nations against apartheid.

Within South Africa the African National Congress, headed by Nelson Mandela, led the opposition to the government's racial policies. Many of the ANC leaders, including Mandela, spent many years in jail.

In the 1970s the South African government began easing some of its racial restrictions, but the pace did not satisfy the ANC, and wide-scale violence committed by extremists on both sides took hundreds of lives. Even though the government of P.W. Botha seemed committed to ending apartheid, opponents of the system demanded more reforms and at a faster pace.

The charismatic Anglican bishop, Desmond Tutu, rallied western support with his call for a boycott of South Africa, primarily through economic sanctions. The administration of Ronald Reagan opposed formal sanctions, preferring to exert quiet pressure to speed up reform. But the demand for sanctions could not be quieted, and in 1986 Congress overrode a presidential veto to ban the importation of South African goods and prohibit American business investments in South Africa.

While some critics believe the sanctions were more symbolic than anything else, others claim that they did contribute to rapid political change in South Africa. In 1990 President

F.W. de Klerk released Nelson Mandela after twenty-seven years of imprisonment, opened negotiations with the ANC and scrapped most of the apartheid laws. In 1992 a strong majority of the country's white population voted to endorse de Klerk's dismantling of apartheid and the extension of political rights to the black majority. When this happened, President Bush lifted the economic sanctions, claiming that the purpose of the bill had been successfully carried out.

For further reading: Margaret P. Doxey, *Economic Sanctions and International Enforcement* (1980); Richard A. Falk, Samuel S. Kim and Saul H. Mendlovitz, eds., *The United Nations and a Just World Order* (1991).

SANCTIONS AGAINST SOUTH AFRICA

Title I -- Policy of the United States with Respect to Ending Apartheid

Policy Toward the Government of South Africa

Sec. 101. (a) United States policy toward the Government of South Africa shall be designed to bring about reforms in that system of government that will lead to the establishment of a nonracial democracy.

(b) The United States will work toward this goal by encouraging the Government of South Africa to --

(1) repeal the present state of emergency and respect the principle of equal justice under law for citizens of all races

(2) release Nelson Mandela, Govan Mbeki, Walter Sisulu black trade union leaders, and all political prisoners;

(3) permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) establish a timetable for the elimination of apartheid laws

(5) negotiate with representatives of all racial groups in South Africa the future political system in South Africa, and

(6) end military and paramilitary activities aimed at neighboring states.

(c) The United States will encourage the actions set forth in subsection (b) through economic, political, and diplomatic measures as set forth in this Act. The United States will adjust its actions toward the Government of South Africa to reflect the progress or

lack of progress made by the Government of South Africa in meeting the goal set forth in subsection (a).

Policy Toward the African National Congress, etc.

Sec 102. (a) United States policy toward the African National Congress, the Pan African Congress, and their affiliates shall be designed to bring about a suspension of violence that will lead to the start of negotiations designed to bring about a nonracial and genuine democracy in South Africa.

(b) The United States shall work toward this goal by encouraging the African National Congress and the Pan African Congress, and their affiliates, to --

(1) suspend terrorist activities so that negotiations with the Government of South Africa and other groups representing black South Africans will be possible;

(2) make known their commitment to a free and democratic post-apartheid South Africa -

(3) agree to enter into negotiations with the South African Government and other groups representing black South Africans for the peaceful solution of the problems of South Africa --

(4) reexamine their ties to the South African Communist Party.

(c) The United States will encourage the actions set forth in subsection (b) through political and diplomatic measures. The United States will adjust its actions toward the Government of South Africa not only to reflect progress or lack of progress made by the Government of South Africa in meeting the goal set forth in subsection 101(a) but also to reflect progress or lack of progress made by the ANC and other organizations in meeting the goal set forth in subsection (a) of this section.

Policy Toward the Victims of Apartheid

Sec 103. (a) The United States policy toward the victims of apartheid is to use economic, political, diplomatic, and other effective means to achieve the removal of the root cause of their victimization, which is the apartheid system. In anticipation of the removal of the system of apartheid and as a further means of challenging that system, it is the policy of the United States to assist these victims of apartheid as individuals and through organizations to overcome the handicaps imposed on them by the system of apartheid and to help prepare them for their rightful roles as full participants in the political, social, economic, and intellectual life of their country in the post-apartheid South Africa envisioned by this Act.

(b) The United States will work toward the purposes of subsection (a) by --

(1) providing assistance to South African victims of apartheid without discrimination by race, color, sex, religious belief, or political orientation, to take advantage of educational opportunities in South Africa and in the United States to prepare for leadership positions in a post-apartheid South Africa;

(2) assisting victims of apartheid;

(3) aiding individuals or groups in South Africa whose goals are to aid victims of apartheid or foster nonviolent legal or political challenges to the apartheid laws;

(4) furnishing direct financial assistance to those whose nonviolent activities had led to their arrest or detention by the South African authorities and (B) to the families of those killed by terrorist acts such as "necklacings";

(5) intervening at the highest political levels in South Africa to express the strong desire of the United States to see the development in South Africa of a nonracial democratic society;

(6) supporting the rights of the victims of apartheid through political, economic, or other sanctions in the event the Government of South Africa fails to make progress toward the removal of the apartheid laws and the establishment of such democracy; and

(7) supporting the rights of all Africans to be free of terrorist attacks by setting a time limit after which the United States will pursue diplomatic and political measures against those promoting terrorism and against those countries harboring such groups so as to achieve the objectives of this Act.

Policy Toward Other Countries in South Africa

Sec 104. (a) The United States policy toward the other countries in the Southern African region shall be designed to encourage democratic forms of government, full respect for human rights, an end to cross-border terrorism, political independence, and economic development.

(b) The United States will work toward the purposes of subsection (a) by --

(1) helping to secure the independence of Namibia and the establishment of Namibia as a nonracial democracy in accordance with appropriate United Nations Security Council resolutions;

(2) supporting the removal of all foreign military forces from the region;

(3) encouraging the nations of the region to settle differences through peaceful means;

(4) promoting economic development through bilateral and multilateral economic assistance targeted at increasing opportunities in the productive sectors of national

economies, with a particular emphasis on increasing opportunities for nongovernmental economic activities;

(5) encouraging, and when necessary, strongly demanding, that all countries of the region respect the human rights of their citizens and noncitizens residing in the country, and especially the release of persons persecuted for their political beliefs or detained without trial;

(6) encouraging, and when necessary, strongly demanding that all countries of the region take effective action to end cross-border terrorism; and

(7) providing appropriate assistance, within the limitations of American responsibilities at home and in other regions, to assist regional economic cooperation and the development of interregional transportation and other capital facilities necessary for economic growth.

Policy Toward Frontline States

Sec 105. It is the sense of the Congress that the President should discuss with the governments of the African "frontline" states the effects on them of disruptions in transportation or other economic links through South Africa and of means of reducing those effects.

Sec. 106. (a)(1) United States policy will seek to promote negotiations among representatives of all citizens of South Africa to determine a future political system that would permit all citizens to be full participants in the governance of their country. The United States recognizes that important and legitimate political parties in South Africa include several organizations that have been banned and will work for the unbanning of such organizations in order to permit legitimate political viewpoints to be represented at such negotiations. The United States also recognizes that some of the organizations fighting apartheid have become infiltrated by Communists and that Communists serve on the governing boards of such organizations.

(2) To this end, it is the sense of the Congress that the President, the Secretary of State, or other appropriate high-level United States officials should meet with the leaders of opposition organizations of South Africa, particularly but not limited to those organizations representing the black majority. Furthermore, the President, in concert with the major allies of the United States and other interested parties, should seek to bring together opposition political leaders with leaders of the Government of South Africa for the purpose of negotiations to achieve a transition to the post-apartheid democracy envisioned in this Act.

(b) The United States will encourage the Government of South Africa and all participants to the negotiations to respect the right of all South Africans to form political parties, express political opinions, and otherwise participate in the political process without fear of retribution by either governmental or nongovernmental organizations. It is the sense of the Congress that a suspension of violence is an essential precondition for the holding of

negotiations. The United States calls upon all parties to the conflict to agree to a suspension of violence.

(c) The United States will work toward the achievement of agreement to suspend violence and begin negotiations through coordinated actions with the major Western allies and with the governments of the countries in the region.

(d) It is the sense of the Congress that the achievement of an agreement for negotiations could be promoted if the United States and its major allies, such as Great Britain, Canada, France, Italy, Japan, and West Germany, would hold a meeting to develop a fourpoint plan to discuss with the Government of South Africa a proposal for stages of multilateral assistance to South Africa in return for the Government of South Africa implementing --

(1) an end to the state of emergency and the release of the political prisoners, including Nelson Mandela;

(2) the unbanning of the African National Congress, the Pan African Congress, the Black Consciousness Movement, and all other groups willing to suspend terrorism and to participate in negotiations and a democratic process

(3) a revocation of the Group Areas Act and the Population Registration Act and the granting of universal citizenship to all South Africans, including homeland residents; and

(4) the use of the international offices of a third party as an intermediary to bring about negotiations with the object of the establishment of power-sharing with the black majority.

Policy Toward International Cooperation on Measures to End Apartheid

Sec. 107. (a) The Congress finds that --

(1) international cooperation is a prerequisite to an effective anti-apartheid policy and to the suspension of terrorism in South Africa; and

(2) the situation in South Africa constitutes an emergency in international relations and that action is necessary for the protection of the essential security interests of the United States.

(b) Accordingly, the Congress urges the President to seek such cooperation among all individuals, groups, and nations.

Policy Toward Necklacing

Sec. 108. It is the sense of the Congress that the African National Congress should strongly condemn and take effective actions against the execution by fire, commonly known as "necklacing", of any person in any country.

United States Ambassador to Meet with Nelson Mandela Sec. 109. It is the sense of the Senate that the United States Ambassador should promptly make a formal request to the South African Government for the United States Ambassador to meet with Nelson Mandela.

Policy Toward the Recruitment and Training of Black South Africans by United States Employers

Sec. 110. (a) The Congress finds that --

- (1) the policy of apartheid is abhorrent and morally repugnant;
- (2) the United States believes strongly in the principles of democracy and individual freedoms;
- (3) the United States endorses the policy of political participation of all citizens;
- (4) a free, open, and vital economy is a primary means for achieving social equality and economic advancement for all citizens; and
- (5) the United States is committed to a policy of securing and enhancing human rights and individual dignity throughout the world.

(b) It is the sense of the Congress that United States employers operating in South Africa are obliged both generally to actively oppose the policy and practices of apartheid and specifically to engage in recruitment and training of black and colored South Africans for management responsibilities.

Title III -- Measures by the United States to Undermine Apartheid

Prohibition on the Importation of Krugerrands

Sec. 301. No person, including a bank, may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

Prohibition on the Importation of Military Articles

Sec. 302. No arms, ammunition, or military vehicles produced in South Africa or any manufacturing data for such articles may be imported into the United States....

Prohibition on Computer Exports to South Africa

Sec. 304. (a) No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use by any of the following entities of the Government of South Africa:

- (1) The military.
 - (2) The police.
 - (3) The prison system.
 - (4) The national security agencies.
 - (5) ARMSCOR and its subsidiaries or the weapons research activities of the Council for Scientific and Industrial Research.
 - (6) The administering authorities for controlling the movements of the victims of apartheid.
 - (7) Any apartheid enforcing agency.
 - (8) Any local, regional, or homelands government entity which performs any function of any entity described in paragraphs (1) through (7).
- (b) (1) Computers, computer software, and goods or technology intended to service computers may be exported, directly or indirectly, to or for use by an entity of the Government of South Africa other than those set forth in subsection (a) only if a system of end use verification is in effect to ensure that the computers involved will not be used for any function of any entity set forth in subsection (a).
- (2) The Secretary of Commerce may prescribe such rules and regulations as may be necessary to carry out this section.

Prohibition on Loans to the Government of South Africa

Sec. 305. (a) No national of the United States may make or approve any loan or other extension of credit, directly or indirectly, to the Government of South Africa or to any corporation, partnership or other organization which is owned or controlled by the Government of South Africa....

Prohibition on Air Transportation with South Africa

Sec. 306. (a) (1) The President shall immediately notify the Government of South Africa of his intention to suspend the rights of any air carrier designated by the Government of South Africa under the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, to service the routes provided in the Agreement.

(2) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the

Government of South Africa under the Agreement to provide service pursuant to the Agreement.

(3) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation not to permit or otherwise designate any United States air carrier to provide service between the United States and South Africa pursuant to the Agreement....

Prohibitions on Nuclear Trade with South Africa

Sec 307. (a) Notwithstanding any other provision of law --

(1) the Nuclear Regulatory Commission shall not issue any license for the export to South Africa of production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any component parts, items, or substances which the Commission has determined, pursuant to section 109b. of the Atomic Energy Act, to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes....

Prohibition on Importation of Uranium and Coal from South Africa

Sec. 309. (a) Notwithstanding any other provision of law, no -- (1) uranium ore, (2) uranium oxide (3) coal, or (4) textiles produced or manufactured in South Africa may be imported into the United States.

(b) This section shall take effect 90 days after the date of enactment of this Act.

Prohibition on New Investment in South Africa

Sec. 310. (a) No national of the United States may, directly or through another person, make any new investment in South Africa.

(b) The prohibition contained in subsection (a) shall take effect 45 days after the date of enactment of this Act.

(c) The prohibition contained in this section shall not apply to a firm owned by black South Africans.

Termination of Certain Provisions

Sec 311. (a) This title and sections 501(c) and 504(b) shall terminate if the Government of South Africa --

(1) releases all persons persecuted for their political beliefs or detained unduly without trial and Nelson Mandela from prison;

(2) repeals the state of emergency in effect on the date of enactment of this Act and releases all detainees held under such state of emergency;

(3) unbans democratic political parties and permits the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) repeals the Group Areas Act and the Population Registration Act and institutes no other measures with the same purposes; and

(5) agrees to enter into good faith negotiations with truly representative members of the black majority without preconditions.

(b) The President may suspend or modify any of the measures required by this title or section 501(c) or section 504(b) thirty days after he determines, and so reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that the Government of South Africa has --

(1) taken the action described in paragraph (1) of subsection (a),

(2) taken three of the four actions listed in paragraphs (2) through (5) of subsection (a), and

(3) made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy, unless the Congress enacts within such 30-day period, in accordance with section 602 of this Act, a joint resolution disapproving the determination of the President under this subsection.

(c) It is the policy of the United States to support the negotiations with the representatives of all communities as envisioned in this Act. If the South African Government agrees to enter into negotiations without preconditions, abandons unprovoked violence against its opponents, commits itself to a free and democratic post-apartheid South Africa under a code of law; and if nonetheless the African National Congress, the Pan African Congress, or their affiliates, or other organizations, refuse to participate; or if the African National Congress, the Pan African Congress or other organizations --

(1) refuse to abandon unprovoked violence during such negotiations; and

(2) refuse to commit themselves to a free and democratic postapartheid South Africa under a code of law, then the United States will support negotiations which do not include these organizations.

Policy Toward Violence or Terrorism

Sec. 312. (a) United States policy toward violence in South Africa shall be designed to bring about an immediate end to such violence and to promote negotiations concluding

with a removal of the system of apartheid and the establishment of a non-racial democracy in South Africa.

(b) The United States shall work toward this goal by diplomatic and other measures designed to isolate those who promote terrorist attacks on unarmed civilians or those who provide assistance to individuals or groups promoting such activities.

(c) The Congress declares that the abhorrent practice of "necklacing" and other equally inhumane acts which have been practices in South Africa by blacks against fellow blacks are an affront to all throughout the world who value the rights of individuals to live in an atmosphere free from fear of violent reprisals.

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