

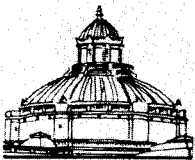
Issue Brief

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SOUTH AFRICA: U.S. POLICY AFTER SANCTIONS

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CONTENTS

SUMMARY

ISSUE DEFINITION

BACKGROUND AND ANALYSIS

Introduction

Effect of Legislation on U.S. Policy

Implementation of Legislation

Perspectives on the Impact of Sanctions

South African Reaction

Disinvestment of American Firms

U.S. Influence

Effect on South African Economy

Danger of Countersanctions

Action in the 100th Congress

NOTES

LEGISLATION

SOUTH AFRICA: U.S. POLICY AFTER SANCTIONS

SUMMARY

In October 1986, Congress expressed disagreement with the constructive engagement policy of the Administration when it passed the Comprehensive Anti-Apartheid Act, imposing sanctions against South Africa. The Reagan Administration assured the Congress that it would faithfully implement the sanctions as well as the positive measures required by the Act. While the Administration generally followed the Act's requirements, it continues to espouse a policy of constructive engagement. Some might question the Administration's intentions because it still expresses disapproval of the use of sanctions and has not yet called for formal, public negotiations to coordinate multilateral sanctions as directed by the Act.

The purpose of the sanctions is to persuade the South African government to move more quickly towards a negotiated end to the apartheid system and the unrest in South Africa. South Africa has reacted to the sanctions by declaring them to be interference in its domestic affairs, by helping businessmen evade the sanctions, and by increasing its repression of blacks under the state of emergency. Some observers have judged that U.S. influence with the South African government has been reduced, but this may not be entirely true. The official opposition, the Progressive Federal Party, and some defectors from the ruling National Party, have reacted to the sanctions by pressuring the government to speed up reforms and to negotiate with blacks for a new system for sharing power. It is too early to tell what effect the sanctions will have on the South African economy generally and particularly on jobs for blacks. The Pretoria government believes large numbers of jobs will be lost to blacks. Although some blacks agree, others express willingness to endure such hardships if it will result in a major change in the apartheid system. The increase in the number of American firms disinvesting their holdings in South Africa so far has resulted in relatively little job loss because most of these countries have sold their assets to local South African interests.

South Africa could impose several kinds of counter sanctions. South African officials have threatened that such counter sanctions could include a cutoff of American grain imports and sending home migrant workers from neighboring countries. There is also some concern that Western access to strategic minerals could be denied. So far, none of these countersanctions has been implemented.

Some in Congress are waiting to see what results are produced by the U.S. limited sanctions program before considering further measures. Others are not willing to wait and are proposing further measures, including legislation to ban all investments and trade with South Africa.

ISSUE DEFINITION

Congress passed the Comprehensive Anti-Apartheid Act of 1986 (P.L. 99-440) in October 1986. The Act imposed a number of specific sanctions against South Africa and mandated several positive actions to assist victims of apartheid. It also included several provisions intended to redirect U.S. policy toward South Africa. The effectiveness of the sanctions in persuading South Africa to end apartheid and move toward a free, democratic, and nonracial society is now an issue of concern. Depending on their impact, Congress may want to strengthen the sanctions, moderate them, or eliminate them altogether.

BACKGROUND AND ANALYSIS

Congress, as demonstrated by passage of the Comprehensive Anti-Apartheid Act, and the Reagan Administration agree that apartheid should be eliminated in South Africa and replaced with a free and equitable system for all groups living there. There is no consensus, however, on the best methods for achieving this objective. The Comprehensive Anti-Apartheid Act redefined U.S. policy toward South Africa, imposed a set of sanctions, and established a number of positive measures to assist South African blacks and other nonwhite minorities who are the victims of apartheid. The Administration supports the policy objectives and the positive measures but not the sanctions. Because the sanctions have been forced onto a reluctant Administration, Congress will likely be watching in the coming year to see whether they are being implemented. Congress will also be watching events in South Africa. If reforms do not move quickly enough, indicating little impact of the sanctions, some in Congress may want to strengthen the sanctions. Others may want to moderate or lift the current sanctions as counterproductive. This issue brief looks at changing U.S. policy toward South Africa, the implementation of the sanctions by the Administration, and the various perspectives on the impact of the sanctions.

Effect of Legislation on U.S. Policy

Although the sanctions legislation has altered the constructive engagement policy toward South Africa somewhat, the essence of the policy remains intact. Originally, constructive engagement was a concept that envisioned maintaining contact with the South African government with the goal of resolving southern African conflicts and persuading the government to move away from its policy of apartheid or racial separation. It meant using dialogue and some quiet pressure rather than public disapproval or stronger measures such as sanctions to reach these objectives. As events unfolded in the autumn of 1984 when black unrest began, the Administration became progressively more vocal in its criticism of South African repressive actions. In 1985, strains between the U.S. Government and South Africa seemed to grow as the Administration began calling for negotiations between the South African government and its opponents. When South Africa conducted raids on neighboring countries in 1985 and 1986, the United States expressed disapproval. Through all of this, the Administration held to constructive engagement as an overall policy.

Citing examples of what it described as reforms in South Africa, the Administration argued that constructive engagement had given the United States a limited influence over positive developments that could be undone by sanctions.

Despite the passage of the sanctions legislation, the Reagan Administration continues to advocate dialogue and communication with the South African government and with all parties to southern Africa's conflicts. The phrase "constructive engagement" is rarely used by policymakers today, but Secretary of State George Shultz, during his trip to sub-Saharan Africa in January 1987, said at a Kenyan press conference, "So this is our policy -- to be engaged and engaged with everybody and we hope that our actions will be constructive." The Administration has stated its commitment to implement the sanctions, even though officials continue to express their disapproval of the punitive measures. They argue that such measures will prove harmful to South African blacks and other nonwhite minorities and that they will not convince the white government in Pretoria to abolish the apartheid laws.

A new development in the Administration's constructive engagement policy is the pursuit of greater contact or "engagement" with the African National Congress (ANC) and other apartheid opposition groups. Such contacts are mandated in any case by Title I of the Comprehensive Anti-Apartheid Act, which states U.S. policy toward South Africa. The new U.S. Ambassador to South Africa, Edward Perkins, has made clear that he would establish contacts with various black opposition organizations. Other American officials have had talks with ANC leaders in recent months, and these led to a meeting in January 1987 between ANC President Oliver Tambo and Secretary Shultz.

As an extension of the policy of encouraging negotiation among the parties in South Africa, the Administration has supported the Indaba proposal for a nonracial government in South Africa's Natal Province. In that plan blacks from the KwaZulu homeland would share power with white, mixed-race, and Indian South Africans in Natal. U.S. officials regard this as a positive move toward resolving the problems in South Africa, and they hope that a similar kind of discussion will eventually occur on a nationwide basis.

It is clear, therefore, that while the constructive engagement policy is still alive, it has been heavily influenced by congressional views and actions as well as by events in South Africa. Furthermore, the policy is in a continuing state of evolution.

Implementation of Legislation

The Administration began implementation of the Comprehensive Anti-Apartheid Act on Oct. 27, 1986, when President Reagan signed Executive Order 12571. The executive order gave authority to all Government agencies to implement the sanctions and other measures in the Act. To date, at least three agencies have taken implementing actions. The State Department published regulations in October 1986, to implement provisions relating to the use of fair labor standards by U.S. firms in South Africa.

Also in October, it terminated the U.S.-South African Convention for the Avoidance of Double Taxation, as required by the Act. In order to facilitate the ban on the import of products made by South African parastatals (government-owned companies), the State Department issued a list of such parastatals in November 1986. In the same month, the Transportation Department terminated air service between the United States and South Africa, and the Treasury Department issued regulations on South African gold coins, bank loans, agricultural products, and other imports banned by the Act. In December, Treasury published regulations to implement the ban on new investments and the provision prohibiting U.S. banks from holding deposits by the South African government or parastatals.

The Act required 12 separate reports to Congress that were due on specific dates. So far five of these reports have been submitted. Although none of the reports has been received by its due date, all have been delivered by the Administration, and none was delivered more than a month late. Six other reports were due in April 1987, and the final report, due in October, will describe whatever progress or lack of progress South Africa has made toward ending apartheid. Following are descriptions of the reports that have been received:

-- **Health conditions in the "homelands."** Required by Section 503; due Dec. 1, 1986; received Jan. 9, 1987; delayed because South Africa denied a visa to the AID person who was to conduct the necessary research. The report said that while two-thirds of all South African black children are undernourished, children in the homelands and the resettlement camps have the most severe forms of malnutrition.

-- **Imports of strategic and critical materials from the CMEA countries.** Required by Subsection 502(b)(1)(A); due Nov. 2, 1986; received Jan. 23, 1987; delayed because the necessary statistics were not available in time for a November release. Monthly data after the first report is required by Subsection 502(b)(1)(B) and 502(b)(2). The report lists U.S. imports from countries of the Council of Mutual Economic Assistance (CMEA) or Soviet-bloc countries.

-- **Activities of the South African Communist Party (SACP) and its infiltration into South African opposition groups.** Required by Section 509; due Jan. 2, 1987; received Jan. 8, 1987. The report said the African National Congress (ANC) was deeply obligated to the SACP and the Soviet Union for military assistance but it did not deal with the question of whether or not the ANC's ideology is influenced mainly by communism or nationalism. The report also said the SACP has almost no influence on South Africa's black labor groups.

-- **Extent of U.S. dependence on South African minerals.** Required by Section 504; due Jan. 2, 1987; received Feb. 3, 1987. The report says the United States is dependent on South Africa for 100 percent of its consumption of ferrovanadium; 50 percent of cobalt, chromite, ferrochromium, and platinum-group metals; 33 percent of manganese metal and ferromanganese; and 28 percent of natural industrial diamonds.

-- **Assistance programs for black South Africans.** Required by Section 511(b); due Jan. 2, 1987; received February 1987. The report described programs on education; training for leaders of labor unions, grassroots community organizations, and consumer unions; training for health workers and black entrepreneurs; human rights projects such as legal assistance for detainees; and community self-help projects.

-- **Violations of the arms embargo against South Africa.** Required by Section 508; due Apr. 1, 1987; received Apr. 2, 1987. The report said that defense companies in France, Italy and Israel since 1977 had helped maintain and upgrade weapons systems provided to South Africa before the embargo was imposed. The Israeli government was believed to be aware of this trade, but it decided in March not to sign new military contracts with South Africa. Companies in Germany, the United Kingdom, the Netherlands, and Switzerland were said to have made weapons and gray area sales on occasion without government permission.

-- **Negotiations for multilateral sanctions.** Required by Section 401; due Apr. 2, 1987; received Apr. 9, 1987. According to the report, the multilateral negotiations for sanctions are not mandatory, but instead the Congress was only recommending such negotiations. The Administration makes clear in the report that it believes the imposition of mandatory multilateral sanctions through the U.N. Security Council, as recommended in Section 401(e), would be a mistake. It argues that each nation should be free to decide on sanctions individually according to what actions it considers to be effective. Nevertheless, the report says that discussions are continuing with key allies on policy towards South Africa and on assistance to its neighbors in southern Africa.

Certain other reports and notifications have no due dates and are required only under specific circumstances. A total of seven such communications is required by the Act. An example is Section 311(b) of the Act which says that if the President decides to modify or suspend any sanctions, he must report to Congress that South Africa has released Nelson Mandela and taken other specific actions or that it has made substantial progress toward dismantling apartheid. Congress may then disapprove the Presidential determination on the sanction within 30 days. If the President decides a specific sanction has increased U.S. dependence on Soviet bloc countries for any strategic materials, then he must report this determination to Congress. This report is required by Section 502(a). The only report in this category that has been submitted so far is required by Section 303(a)(2). This report lists ten strategic minerals exported by South African parastatals that are unavailable from other reliable sources in quantities necessary for the U.S. economy and defense. It was received on Jan. 14, 1987.

Most indications to date suggest that the Administration has been implementing the Comprehensive Anti-Apartheid Act to the letter. Sanctions supporters may look critically, however, at the Administration's veto in February 1987, of a U.N. Security Council resolution that would have made mandatory for all U.N. members a package of sanctions similar to those imposed by the Act. The U.S. Ambassador to the United Nations defended the veto, saying that mandatory sanctions would harm black South Africans and countries neighboring South Africa and that unlike the

congressional sanctions, the proposed U.N. sanctions could not be lifted in the event South Africa makes substantial changes in the apartheid system. Also the Administration has done little to set up discussions with U.S. allies on coordinated sanctions as called for by Title IV, Section 401 of the Act.

In at least one case, disagreement in Congress has blocked full implementation of a sanction. This is the decision by Treasury to allow the import of South African uranium temporarily (deadline July 1, 1987) until the congressional intent on the ban on the import of South African uranium can be clarified. Some in Congress want the ban to include all South African uranium imports. Others want uranium meant for re-export to other countries to be excluded from the ban because a total ban would mean the loss of jobs at uranium processing plants in the United States.

Perspectives on the Impact of Sanctions

There has been a longstanding debate on whether sanctions will be successful or counterproductive in the South African case. Supporters believe sanctions eventually will pressure the Pretoria government to eliminate its apartheid system -- either by speeding up reforms or by sitting down to negotiations. Opponents, on the other hand, say that sanctions will only harden Pretoria's determination to resist change while hurting blacks economically and that they will also lead to a cutoff of Western access to South African minerals. Most analysts agree that it is too early to expect many actual results from the U.S. sanctions, yet there is much speculation about their impact. Most supporters of sanctions appear prepared to adopt a wait-and-see attitude rather than advocating additional sanctions in the coming year. This section will first look at the immediate consequences of the sanctions and then at changes that may occur in the future.

South African Reaction

One immediate result has been the South African government's increased defiance of U.S. policy. President Botha and other South African officials, in recent speeches, have expressed anger and frustration with the imposition of sanctions by the United States and other Western countries at a time when, they argue, their government is moving toward reform. Also, they strongly criticize sanctions as foreign interference in South Africa's domestic affairs. This criticism will be a part of the ruling National Party's platform in the May 1987 campaign for parliamentary seats for white voters. Some observers believe that South Africa has delayed its reform program since the imposition of sanctions and that this slowdown will continue at least until after the May elections. They note that in December 1986, the South African government imposed new restrictions on the press and anti-apartheid groups and detained opposition activists. These repressive actions were seen by some not only as a defiance of Western attempts to influence Pretoria's actions but also a campaign maneuver to satisfy the right-wing challenge to the National Party.

Because the government is determined that it will not give in to the pressures of sanctions, it has stockpiled materials important to the country's economy and reportedly has helped businesses circumvent sanctions. "Sanctions-busting" techniques are widely discussed between the government and South African businesses. Techniques which have been suggested to evade sanctions include marketing through third countries, the formation of offshore trading companies (middlemen willing to run the risk of evading sanctions), falsifying shipping documents, blacking out information on shipping traffic to mask the origin of exports, and rerouting air services through countries willing to cooperate.

Although the government initially has followed a pattern of defiance, the emergence of a vocal moderate element in the National Party (NP) may ultimately change the party's approach. Three NP Members of Parliament have already declared that they will run in the May 1987 white elections as independents. They explained their decision as a consequence of their frustration with the slow pace of reform pursued by the government. Some observers of the campaign believe that if the independents are successful in the election the National Party will have been eroded from the left as well as from the right. The Conservative Party has challenged the National Party in recent years, gaining seats in the white Parliament. Observers think that if both the independents and the Progressive Federal Party gain seats in May, the NP government would be under increased pressure to negotiate with black leaders. If the Conservative Party further increases its seats, the government will be encouraged to continue its policy of refusing to negotiate and slowing its reform program. Some news reports say that the government is feeling the effects of the moderate movement among whites because its campaign oratory has shifted from an earlier emphasis on right-wing concerns to an emphasis on convincing the left-wing that reform has not stopped.

Disinvestment of American Firms

A second immediate result of the sanctions may be the increase in U.S. companies withdrawing their investments from South Africa. Since the passage of the sanctions legislation at least five major American companies have withdrawn their holdings there. They are General Motors, IBM, Eastman Kodak, Revlon, and Exxon. Earlier in September, Coca Cola pulled out of the country. Most of these companies said they withdrew because of the Pretoria government's slow movement away from apartheid as well as the uncertainty of the economic climate. As of December 1986, according to the American Chamber of Commerce in Johannesburg, 26 out of the remaining 259 U.S. corporations were considering disinvestment from South Africa. There is some debate on whether this is good or bad. Some American companies have sold their assets to local South African interests, a move which allows employees to keep their jobs but does not accomplish the purpose of disinvestment. The reason anti-apartheid groups advocate disinvestment is to withdraw U.S. support of the South African economy, and this method of withdrawal does not accomplish this objective because American products in question are still sold in South Africa. At least one American company, Eastman Kodak, has made a total withdrawal, making certain that its products will no longer be sold and distributed there. Other observers have expressed concern that if American companies withdraw, the fair employment principles and the social programs they

finance will be eliminated. The argument is that South African companies replacing the American subsidiaries will be forced to cut costs in order to compete with local companies, and social programs will be removed as a result. Some South African business executives argue that this problem is exaggerated and they note that South African companies, especially those associated with the Urban Foundation, have spent large sums of money on social programs for blacks.

U.S. Influence

A third result of sanctions, according to American diplomats, is a reduction of U.S. influence with the South African government. These officials say that South Africa is no longer listening to American protests of human rights violations such as forced removals in the black township of Oukasie, north of Pretoria, and the detention in Venda of Reverend T. Simon Farisani. Some believe, according to news reports, that Pretoria will be even less willing than in the past to negotiate with the ANC and other black leaders, an action strongly encouraged by the United States. U.S. officials have said South Africa is completely ignoring American views because of the sanctions and point to the government's response to black opposition in December 1986. A more tangible example of fading U.S. influence is Pretoria's refusal to issue visas to some American citizens wishing to travel in South Africa. An AID official who was to study health and malnutrition in the homelands was refused a visa in 1986, as were a number of Members of Congress who wished to visit the country. Critics of this perspective argue that before the sanctions, the constructive engagement policy was never very effective in influencing South Africa to moderate its behavior. Furthermore, it might be argued that U.S. influence is being felt in South Africa as a result of the sanctions because of the growth of white moderation. Some whites have become frustrated with the government's slowdown in its reform program and want to see faster movement toward sharing power with blacks. A group of academics at Stellenbosch University, an influential Afrikaner university, has made a public statement to this effect, as noted above; three Members of Parliament are running as independents in the May 1987 elections; and the former leader of the parliamentary opposition party, the Progressive Federal Party (PFP) resigned in early 1986, hoping to pressure the Botha Administration from a position outside the government. The outcome of the May elections should give some indication of the extent of the new white viewpoint and consequently the effect of sanctions pressure.

Effect on South African Economy

There is much speculation about possible economic effects of the American sanctions. Supporters of sanctions had hoped that the measures in the anti-apartheid legislation would cause the economy to decline to the degree that the South African government would be willing to make fundamental changes in the apartheid system. The South African government and others in South Africa maintain that sanctions will cause many blacks to lose their jobs. U.S. sanctions alone, they say, will result in over 600,000 unemployed, and the loss of jobs to these workers will mean that 3.1 million of their dependents will also be affected.

Some South Africans who are apartheid opponents say that the reduced income will decrease black consumer power. They argue that consumer power is the key to successful economic boycotts that they believe are an important nonviolent force for change. Some observers think that sanctions will limit the pressure for change from the South African business community. Those who make this argument say that business executives will be preoccupied with sanctions evasion in order to survive. To circumvent sanctions they will have to work closely with the Pretoria government and therefore will be reluctant to antagonize the government by pressuring it for reform. Many black opposition groups, on the other hand, say that blacks are willing to endure the unemployment that results from sanctions if this will mean a major change in the apartheid system. The ANC, COSATU (the umbrella trade union organization), and Bishop Tutu follow this line of argument. Other black groups such as Chief Buthelezi's Inkatha and many workers whose jobs have been threatened by American companies disinvesting are worried about losing those jobs. Chief Buthelezi has spoken out against sanctions for this reason.

Danger of Countersanctions

A number of countersanctions have been either threatened by South Africa or anticipated by those opposing sanctions. In October 1986, when the U.S. Senate was considering an override of the President's veto of sanctions legislation, a South African official threatened to cut off South African imports of American grain if the override went through. The Senate overrode the veto and the sanctions became law, but to date the South African government has not made good its threat.

In the summer of 1986, when the sanctions legislation was being debated and other countries were considering new sanctions, South Africa threatened to send home migrant workers from neighboring countries should these sanctions be adopted. South Africa did send home Mozambican workers in response to a landmine incident on its northern border in October 1986, in which six South African soldiers were wounded. This action, however, was portrayed as a response to alleged Mozambican protection of ANC guerrillas who were believed to have laid the mine. It was not believed to be a response to sanctions. Other foreign workers in South Africa, however, could be repatriated as a future counter sanction. Some have suggested that South Africa might be constrained from imposing this and other sanctions against its neighbors because it depends on their markets for many of its goods. Furthermore, the foreign exchange produced from trade with them might become more valuable if South Africa's world isolation grows.

Those opposed to sanctions have long argued that American measures against South Africa could result in South Africa denying the United States access to certain strategic minerals, especially chromium and platinum-group minerals. Others might argue that this is unlikely because South Africa needs the United States and other Western markets for these minerals. Nevertheless, some are anticipating how to deal with the possibility of a cutoff. There is talk now of developing chromium and platinum reserves in Zimbabwe and Botswana, as well as platinum mines in the United States. So far none of these proposed countersanctions have been put into effect in response to American sanctions.

Action in the 100th Congress

Many in Congress are waiting to see what the South African government does during 1987 in the area of reform, and particularly concerning negotiations with black leaders. Whether and how quickly the Pretoria government moves toward reform may determine whether Congress decides to lift the current sanctions or add other sanctions to the list. Some in Congress are not willing to wait, and they have introduced bills that would ban all investments in and all trade with South Africa (H.R. 1580 and S. 556). Several bills have been introduced that propose different sanctions. Still others have proposed bills to assist South Africa's neighbors who may be adversely affected by sanctions by the United States and other Western countries. Some in Congress may be increasingly concerned about South African efforts to evade the 1986 sanctions, but no bills dealing with this concern have yet been introduced.

NOTES

1. The exchange allowed Shultz to communicate American concern for the ANC's use of violence in opposing the apartheid system and for the alleged Communist influence on the ANC. Tambo said he regarded the meeting as American recognition that the ANC is a legitimate force and one to be reckoned with in the South African conflict. Some critics, alleging that the ABC is a terrorist organization, believe the United States should not be holding such talks. The Administration, on the other hand, believes that it is necessary to communicate with the ABC as well as the South African government if there is to be a solution to the increasing conflict in South Africa.

2. Since 1984, mixed-race and Indian South Africans have been able to vote for representatives to the tricameral parliament. Blacks have no representation in parliament and are expected to vote for their leaders in the ethnic homelands.

LEGISLATION

H.R. 1580 (Dellums et al.)

Provisions are identical to those in S. 556 except H.R. 1580 also limits the import of goods and services from foreign countries that take commercial advantage or otherwise benefit from the American sanctions (Sec. 7). Introduced Mar. 12, 1987; referred to Committees on Ways and Means, on Public Works and Transportation, or Foreign Affairs, on Banking, Finance and Urban Affairs, on Armed Services, and on Intelligence (permanent). Referred to various subcommittees Mar. 23, 1987.

S. 556 (Cranston et al.)

Imposes the following sanctions against South Africa:

- Section 1 bans U.S. investments in South Africa;
- Section 2 bans imports from South Africa with the exception of strategic minerals specified by the President;
- Section 2 bans exports to South Africa with the exception of food and medical supplies;

--Section 3 bans landing rights in the United States for all South African aircraft except in emergency situations;

--Section 4 bans the import of krugerrands or other South African gold coins;

--Section 5 prohibits American banks from accepting South African deposits except for diplomatic and consular purposes;

--Section 6 bans military or intelligence cooperation with South Africa.

--Section 11 repeals the Comprehensive Anti-Apartheid Act 1986 (P.L. 99-440). Introduced Feb. 19, 1987; referred to Committee on Foreign Relations.