

H 8648

CONGRESSIONAL RECORD — HOUSE

September 29, 1986

There was no objection.

The SPEAKER pro tempore. Without objection the Senate amendment to the title of H.R. 4378 is agreed to. There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
September 29, 1986.

HON. THOMAS P. O'NEILL, JR.,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

- (1) At 5:30 p.m. on Friday, September 26, 1986 and said to contain a message from the President in accordance with the Impoundment Control Act of 1974; and
- (2) At 5:30 p.m. on Friday, September 26, 1986 and said to contain H.R. 3247, an Act to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1990, and a veto message thereon; and
- (3) At 9:25 p.m. on Friday, September 26, 1986 and said to contain H.R. 4868, an Act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, and a veto message thereon.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

ANTI-APARTHEID ACT OF 1986— VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following veto message from the President of the United States.

To the House of Representatives:

I am returning herewith without my approval H.R. 4868, the Comprehensive Anti-Apartheid Act of 1986. Title III of this bill would seriously impede the prospects for a peaceful end to apartheid and the establishment of a free and open society for all in South Africa.

This Administration has no quarrel with the declared purpose of this measure. Indeed, we share that pur-

pose: To send a clear signal to the South African Government that the American people view with abhorrence its codified system of racial segregation. Apartheid is an affront to human rights and human dignity. Normal and friendly relations cannot exist between the United States and South Africa until it becomes a dead policy. Americans are of one mind and one heart on this issue.

But while we vigorously support the purpose of this legislation, declaring economic warfare against the people of South Africa would be destructive not only of their efforts to peacefully end apartheid, but also of the opportunity to replace it with a free society.

The sweeping and punitive sanctions adopted by the Congress are targeted directly at the labor intensive industries upon which the victimized peoples of South Africa depend for their very survival. Black workers—the first victims of apartheid—would become the first victims of American sanctions.

Banning the import of sugar, for example, would threaten the livelihood of 23,000 black farmers. Banning the import of natural resources is a sanction targeted directly at the mining industries of South Africa, upon which more than half a million black laborers depend for their livelihood.

By prohibiting the importation of food and agricultural products, the measure would invite retaliation by South Africa, which since June has purchased over 160,000 tons of wheat from the United States. Denying basic foodstuffs to South Africa—much of which go to feed the black population—will only lead to privation, unrest, and violence. It will not advance the goals of peaceful change.

Are we truly helping the black people of South Africa—the lifelong victims of apartheid—when we throw them out of work and leave them and their families jobless and hungry in those segregated townships? Or are we simply assuming a moral posture at the expense of the people in whose name we presume to act?

This, then, is the first and foremost reason I cannot support this legislation. Punitive economic sanctions would contribute directly and measurably to the misery of people who already have suffered enough. Using America's power to deepen the economic crisis in this tortured country is not the way to reconciliation and peace. Black South Africans recognize that they would pay with their lives for the deprivation, chaos, and violence that would follow an economic collapse. That is why millions of blacks and numerous black leaders in South Africa are as firm in their opposition to sanctions as in their abhorrence of apartheid.

The imposition of punitive sanctions would also deliver a devastating blow to the neighboring states in southern Africa that depend on Pretoria for transportation, energy, markets, and

food. An estimated million-and-a-half foreign workers, legal and illegal, now live in South Africa. The number of people, women and children especially, outside South Africa who are dependent upon the remittances of these workers for their survival has been estimated to be over five million. Do we truly wish to be directly responsible for increased suffering, and perhaps starvation, in southern Africa? Do we truly wish our action to be the rational Pretoria invokes for expelling these workers? Do we truly wish to trigger a cycle of economic sanctions and counter-sanctions that end up crippling the economy of South Africa and devastating the economies of the frontline states? What sense does it make to send aid to those impoverished countries with one hand while squeezing their economies with the other?

Disrupting the South African economy and creating more unemployment will only fuel the tragic cycle of violence and repression that has gripped that troubled country. Black unemployment in South Africa in some areas is over 50 percent—and adding to it will create more anger, more violence, and more competition among blacks struggling to survive. It will not improve prospects for negotiations.

Another feature of the bill would require Administration to publicly identify within six months any and all nations that have chosen not to join us in observing the U.N. arms embargo against South Africa, "with a view to terminating United States military assistance to those countries." But the United States will not revert to a single-minded policy of isolationism, with its vast and unforeseen effects on our international security relationships, that would be dictated by the unilateral decisions of our allies. No single issue, no matter how important, can be allowed to override in this way all other considerations in our foreign policy. Our military relationships must continue to be based upon a comprehensive assessment of our national defense needs and the security of the West.

Not only does this legislation contain sweeping punitive sanctions that would injure most the very people we seek to help, the legislation discards our economic leverage, constricts our diplomatic freedom, and ties the hands of the President of the United States in dealing with a gathering crisis in a critical subcontinent where the Soviet Bloc—with its mounting investment of men and arms—clearly sees historic opportunity. Therefore, I am also vetoing the bill because it contains provisions that infringe on the President's constitutional prerogative to articulate the foreign policy of the United States.

There are, however, several features of the measure that the Administration supports. Title II of the bill, for example, mandates affirmative meas-

September 29, 1986

CONGRESSIONAL RECORD — HOUSE

H 8647

chairman of the subcommittee for just a second.

As the gentleman knows, the House passed unanimously three bills related to monuments to be constructed. One was the Korean veterans bill memorializing the veterans of the Korean war conflict. The second bill was for women who served in the military, and the third bill was for black members of the battalion that served in the Revolutionary War.

I notice in the gentleman's substitute that these three bills which we passed unanimously and the substitute amendment which I agree with were not in the substitute as the gentleman made mention in the original House Bill.

I wonder if the gentleman for the record would like to comment on that.

Mr. VENTO. Mr. Speaker, will the gentleman from California yield?

Mr. LAGOMARSINO. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentlewoman for her assistance again and would just point out that this in no way indicates our support or lack of support. I do support all three of those memorials.

I think as the measure left the House, there was concern as to how the effects of this legislation would work with these three memorials that were in fact passed by the House.

This, if anything, I think, will facilitate the passage of these measures, because the Senate looks to this law as the basic law upon which we will determine the sites, the locations for memorials in the future; so those measures are now awaiting action from the Senate, which I hope, with the gentlewoman that the other body will act.

So I think that in no way does this legislation limit or mitigate against the enactment. In fact, I think it enhances the opportunity for action on those, because we will have a predictable path, a predictable policy, as to how the sites would be selected for those particular memorials.

As the gentleman knows and the other Members here, some of those will go in that core area, in area one, the area that has a great number of memorials today because of the importance of those particular memorials.

Ms. OAKAR. Mr. Speaker, will the gentleman yield further?

Mr. LAGOMARSINO. Further reserving the right to object, Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I would just say, I thank the gentleman for that explanation, which I think is very, very important for our record.

I would just hope that since we have been so cooperative with the Senate, I know they have marked up these three bills, they are ready to go to the floor of the Senate. I would hope that they would, in acknowledgement of the cooperation that has been given to

the Senate, I certainly hope that they will pass out those bills. It would be terrible after all the work that has been done on passage on the House side and all the work that the committees of the Senate have gone through if in our bargaining with the Senate they did not pass these three bills that they said they were going to pass.

Mr. Speaker, I thank the gentleman for yielding. I am very, very pleased with the consideration that we have worked out.

□ 1740

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Minnesota.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I want to corroborate the statement of the gentlewoman from Ohio [Ms. OAKAR] that our committee, which has some little piece of the jurisdiction, is very grateful to the gentleman from Minnesota [Mr. VENTO] and the gentleman from California [Mr. LAGOMARSINO] for working out a formula that we can all agree to.

I also would like to say to the gentleman from Minnesota, in echoing the statements of the gentlewoman who is the chairwoman of the Libraries and Memorials Task Force, that the three bills to which she referred—the black patriots, the women heroes, and the Korean veterans—have had an awful lot of work on them, and we would look to the gentleman for help in seeing that those bills are passed and that those memorials are placed in spots that are appropriate. We know that we will get the full cooperation of the gentleman from Minnesota.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in support of H.R. 4378, to govern the establishment of commemorative works within the National Capital region of the National Park Service.

The House originally passed this bill in May in response to concerns regarding the increasing pressures of competing uses on park lands in the District of Columbia, particularly the Mall area. These lands support a wide variety of activities including national celebrations, recreational use, and public demonstrations. In addition, there are currently 108 commemorative works, including such well-known memorials as the Lincoln and Jefferson, and the Washington Monument, occupying Park Service lands. Many other commemorative works are currently in the planning process.

In an effort to resolve this problem, H.R. 4378 includes strict standards for the placement of commemorative works on Park Service and other Fed-

eral lands in the District of Columbia, particularly in several key areas including the Mall, the Ellipse and the Washington Monument Grounds. It also includes standards to ensure that future commemorative works are structurally sound and durable.

The other body recently amended and approved this legislation. The bill before us today seeks to slightly modify the Senate-passed version. Instead of only allowing a study to determine the feasibility of establishing a site for the placement of temporary commemorative works, this bill goes one step further by allowing the Secretary of the Interior to establish such a site following transmittal of the study. However, I might point out that rigid requirements must be met before any temporary work could be placed at the site.

In addition, the Senate-passed version requires that not only must a determination be made by the appropriate Federal agency that the work to be placed in the central monumental core, known as area I, is of preeminent historical and lasting significance to the Nation, but Congress must approve the determination within 90 days or it is deemed disapproved. The bill before us today would extend the time period from 90 to 150 days. While we feel that it should be very arduous to place new commemorative works in area I, we believe it is important to extend the approval period an additional 2 months to compensate for congressional recesses, adjournments, and so forth. Even with this change, it will still be extremely difficult to locate new commemorative works in this critical area, and well it should be. That is clearly the primary purpose of this legislation.

I might also point out that this bill directs the appropriate authorizing committees to seek the views and recommendations of the National Capital Memorial Commission in authorizing commemorative works. However, I would like to clarify that this language is not intended to be interpreted as meaning that any recommendations provided by the Commission would be binding on the Congress.

I believe the months of hard work and negotiation on H.R. 4378 have produced a fine bill which achieves our major goal—to limit the proliferation of insignificant works on Federal lands in the D.C. area. This bill will still permit the commemoration of worthy individuals and events in our Nation's history, while establishing a good balance of uses for the public lands in our Nation's Capital. Therefore, I urge all of my colleagues to approve the amended version of H.R. 4378 before us today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the initial request of the gentleman from Minnesota?

September 29, 1986

CONGRESSIONAL RECORD — HOUSE

H 8649

ures to eliminate apartheid and provide assistance to its victims, including support for black participation in business enterprises as owners, managers, and professionals. It authorizes the President to take steps for the purpose of assisting firms to fight apartheid and extend equal opportunity to blacks in investment, management, and employment. The bill also contains a number of other useful and realistic provisions, such as those calling upon the African National Congress (ANC) to reexamine its Communist ties mandating a report on the activities of the Communist Party in South Africa and the extent to which it has infiltrated South African political organizations. Still other portions of the bill call upon the ANC to condemn the practice of "necklacing" and terrorism and to state affirmatively that it will support a free and democratic post-apartheid South Africa. These provisions, as well as many others in the bill, reflect the agreement of the Congress and the Administration on important aspects of an overall anti-apartheid policy.

The Administration has been—and remains—prepared to work with the Congress to devise measures that manifest the American people's united opposition to apartheid—without injuring its victims. We remain ready to work with the Congress in framing measures that—like the 1962 U.S. embargo of military sales and the carefully targeted sanctions of my own Executive order of 1985—keep the United States at arms distance from the South African regime, while keeping America's beneficent influence at work bringing about constructive change within that troubled society and nation.

It remains my hope that the United States can work with its European allies to fashion a flexible and coordinated policy—consistent with their recent actions—for constructive change inside South Africa. I believe we should support their measures with similar executive actions of our own, and I will work with the Congress toward that goal. It remains my hope that, once again, Republicans and Democrats can come together on the common ground that, after all, we both share: An unyielding opposition both to the unacceptable doctrine of apartheid as well as the unacceptable alternative of Marxist tyranny—backed by the firm determination that the future of South Africa and southern Africa will belong to the free. To achieve that, we must stay and build, not cut and run.

That American should recoil at what their television screens bring them from South Africa—the violence, the repression, the terror—speaks well of us as a people. But the historic crisis in South Africa is not one from which the leading nation of the West can turn its back and walk away. For the outcome of that crisis has too great a bearing upon the future of Africa, the

future of NATO, the future of the West.

Throughout the postwar era, we Americans have succeeded when we left our partisan differences at the water's edge—and persevered; as we did in the rebuilding of Europe and Japan, as we are doing today in El Salvador. We have failed when we permitted our exasperation and anger and impatience at present conditions to persuade us to forfeit the future to the enemies of freedom.

Let us not forget our purpose. It is not to damage or destroy an economy, but to help the black majority of South Africa and southern Africa enjoy a greater share of the material blessings and bounties their labor has helped to produce—as they secure as well their legitimate political rights. That is why sweeping punitive sanctions are the wrong course to follow, and increased American and Western investment—by firms that are breaking down apartheid by providing equal opportunity for the victims of official discrimination—is the right course to pursue.

Our goal is a democratic system in which the rights of majorities, minorities, and individuals are protected by a bill of rights and firm constitutional guarantees.

RONALD REAGAN.

THE WHITE HOUSE, September 26, 1986.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the message be considered as read and printed in the RECORD.

The SPEAKER. In the opinion of the Chair, that would be setting a precedent, and the Chair believes we should read the message.

Mr. FASCELL. Mr. Speaker, I withdraw my request.

The Clerk concluded the reading of the veto message.

□ 1750

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Florida [Mr. FASCELL] is recognized for 1 hour.

Mr. FASCELL. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Michigan [Mr. BROOMFIELD], the ranking minority member on the Committee on Foreign Affairs, and pending that, Mr. Speaker, I yield myself 2 minutes.

(Mr. FASCELL asked and was given permission to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, today the House casts a very significant vote. Those of you who listened to the veto message from the President did not hear anything new or different, and nothing has changed in South Africa since the time Congress first acted on

this bill. As a matter of fact, I think it is fair to say the situation continues to get worse.

I shall let others talk about the moral, political imperatives which make it necessary to take this legislative and resulting economic action. But suffice it to say, we need to express very clearly once again our feelings as Americans and as the institution representing the American people. We must express the feelings that we have with regard to apartheid; that we want to separate ourselves in every possible way from the actions of the South African Government and in support of principles that are democratic and not repressive.

The President can, of course, at any time issue an executive order. It does not have to be issued now. One would have to take into consideration the reasons issuing it at this time; and the reasons I think are quite obvious.

We do disagree, but this bill has been through the political process. It is overwhelmingly supported by both parties. So when you look at it in the cold light of day, it concerns the question of votes in the other body. That is the only difference that exists today, and that is, in my judgment and without being disrespectful in any way, the reason for this new executive order.

We, the President and the Congress, have come closer and closer on this issue every time it has come up. But I think the time has come and the time is today, to vote yes on this bill and send a clear and unified message on a bipartisan basis.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROOMFIELD asked and was given permission to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, all Americans stand united in their condemnation of apartheid and the human toll that results from this ghastly system of institutionalized racism.

The President spoke for all of us when he stated in his veto message Friday that "normal and friendly relations cannot exist between the United States and South Africa until it become a dead policy."

The United States is on the side of change in South Africa and against those who would maintain the status quo in that country. That is not to say that we are on the side of violence or those who advocate it.

It is my belief that constructive change in South Africa will come about not from the barrel of a gun or from the destruction of the South African economy.

The economy is the most effective force for change in South Africa that exists today.

We should strengthen it, not weaken it.

We should help to build a future for blacks throughout southern Africa.

H 8650

CONGRESSIONAL RECORD — HOUSE

September 29, 1986

We should not contribute to the destruction of the major vehicle for their liberation.

I do not consider this position to be dishonorable, as some in South Africa and here in the Congress seem to imply.

Archbishop Tutu has characterized President Reagan's as position "racist", apparently because the two men do not agree on the best way for the United States to encourage constructive change in South Africa. I object to this kind of name-calling. It is not only inflammatory, but does not contribute to a peaceful resolution of the South Africa tragedy. In fact, the archbishop owes the President an apology.

Many prominent anti-apartheid activists in South Africa disagree with the economic sanctions approach. Chief Buthelezi and Helen Suzman surely cannot be accused of racism, and yet opposition to economic sanctions is their position.

In instituting economic sanctions against South Africa—and in effect, all of southern Africa—the Congress would be ensuring the need for dramatically higher levels of foreign aid to most countries in the region. In an era when foreign aid is targeted for deep cuts, can we afford this? I do not think so.

The United States needs to effectively support the forces for peaceful, constructive change in South Africa. This can best be accomplished through joining with our allies in western Europe and with Canada and Japan in whatever actions we take.

For maximum effect, the western industrialized democracies must speak in one clear voice when addressing South Africa. To balkanize our policy response to South Africa reduces the impact we can have on the situation there.

As the President stated in his remarks Friday, "It remains my hope that the United States can work with its European allies to fashion a flexible and coordinated policy—consistent with their recent actions—for constructive change inside South Africa. I believe we should support their measures with similar executive actions of our own, and I will work with Congress toward that goal."

In my judgment, the administration has been dragging its feet. It should have more vigorously pursued this joint approach long ago. However, I believe the President is sincere in his desire to do so now, and he has my support in his efforts.

Mr. Speaker, the escalating violence in South Africa offers no solutions to the plight of blacks in that country. Similarly, doing violence to the economy of South Africa destroys the best change the country has for rapid change and an end to the system of apartheid.

The vote we will soon have to make today poses a dilemma.

On the one hand, we are frustrated by the slow pace of change in South Africa, by the continuing injustice of the apartheid system.

On the other hand, this bill is not a solution to the problem.

I again quote from the President's remarks:

Let us not forget our purpose. It is not to damage or destroy any economy, but to help the black majority of South Africa and southern Africa enjoy a greater share of the material blessings and bounties their labor has helped to produce—as they secure as well their legitimate political rights.

That is why sweeping punitive sanctions are the wrong course to follow, and increased American and western investment—by firms that are breaking down apartheid by providing equal opportunity for the victims of official discrimination—is the right course to pursue.

Our goal is a democratic system in which the rights of majorities, minorities, and individuals are protected by a Bill of Rights and firm constitutional guarantees.

In a letter to the minority leader, Mr. MICHEL, and myself, the President today outlined the contents of a new executive order he will soon sign which will encompass measures recently adopted by many of our allies. I believe this joint approach has a great deal of merit and a copy of the letter follows my remarks.

A few minutes ago, I talked to the President's national security advisor, Admiral Poindexter, who emphasized the importance at this difficult time of sustaining the President's authority. He also emphasized that the President is committed to assisting responsibly in resolving southern Africa's tragic dilemma.

Mr. Speaker, I urge my colleagues to vote no on this measure and sustain the President's veto.

THE WHITE HOUSE,
Washington, September 29, 1986.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives,
Washington, DC

DEAR BOB: I understand and share the very strong feelings and sense of frustration in the Congress and in our Nation about apartheid, an unconscionable system that we all reject. The ongoing tragedy in South Africa tests our resolve as well as our patience. None of us wants to aggravate that tragedy.

In the last several months, the South African Government, instead of moving further down the once promising path of reform and dialogue, has turned to internal repression. We all know that South Africa's real problem traces to the perpetuation of apartheid. And we know that the solution to this problem can only be found in lifting the present State of Emergency, repealing all racially discriminatory laws, releasing political prisoners, and unbanning political parties—necessary steps opening the way for negotiations aimed at creating a new, democratic order for all South Africans. The South African Government holds the key to the opening of such negotiations. Emerging from discussion among South Africans, we want to see a democratic system in which the rights of majorities, minorities, and individuals are protected by a bill of rights and firm constitutional guarantees. We will be actively pursuing diplomatic opportunities and approaches in an effort to start a movement toward negotiations in South Africa.

I outlined in my message to the House of Representatives on Friday my reasons for vetoing the Comprehensive Anti-Apartheid Act of 1986, principally my opposition to punitive sanctions that harm the victims of apartheid and my desire to work in concert with our Allies. I also indicated in that message that I am prepared to sign an expanded Executive order that strongly signals our rejection of apartheid and our desire to actively promote rapid positive change in South Africa. I am prepared to expand the range of restrictions and other measures that will characterize our relations with South Africa. There would be strong sanctions in my new order, sanctions that I earnestly wish were unnecessary. These sanctions, directed at the enforcers not the victims of apartheid, encompass measures recently adopted by many of our Allies, as well as many elements of the original Senate Committee version of the bill. They are incontestably necessary in today's circumstances. My intention is to make it plain to South Africa's leaders that we cannot conduct business-as-usual with a government that mistakes the silence of racial repression for the consent of the governed.

My new Executive order will, therefore, reaffirm and incorporate the measures I imposed last year (i.e. bans on loans to the South African Government and its agencies, all exports of computers to apartheid-enforcing entities and the military and police, all nuclear exports except those related to health, safety, and IAEA programs, imports of South African weapons, the import of Krugerrands, and a requirement for all U.S. firms to apply fair labor standards based on the Sullivan principles). The Executive order will also add:

A ban on new investments other than those in black-owned firms or companies applying the fair labor standards of the Sullivan principles;

A ban on the imports from South Africa of iron and steel;

A ban on bank accounts for the South African Government and its agencies;

A requirement to identify countries taking unfair advantage of U.S. measures against South Africa with a view to restricting their exports to the United States by the amount necessary to compensate for the loss to U.S. companies;

A requirement to report and make recommendations on means of reducing U.S. dependence on strategic minerals from southern Africa;

A requirement to provide at least \$25 million in assistance for scholarships, education, community development, and legal aid to disadvantaged South Africans with a prohibition on such assistance to any group or individual who has been engaged in gross violations of internationally recognized human rights;

The imposition of severe criminal and civil penalties under several statutes for violation of the provisions of my Executive order;

A requirement to consult with Allies in order to coordinate policies and programs toward South Africa;

A requirement to report on whether any of these prohibitions has had the effect of increasing U.S. or allied dependence on the Soviet bloc for strategic or other critical materials, with a view to appropriate modifications of U.S. measures under my Executive order should such dependency have been increased;

And a clear statement that the Executive order constitutes a complete and comprehensive statement of U.S. policy toward South Africa, with the intent of preempting

South Africa

H 6768

CONGRESSIONAL RECORD — HOUSE

September 12, 1986

□ 1055

GENERAL LEAVE

Mr. WHEAT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just adopted.

The SPEAKER pro tempore. (Mr. DANIEL). Is there objection to the request of the gentleman from Missouri? There was no objection.

PERSONAL EXPLANATION

Mr. ECKERT of New York. Mr. Speaker, I was surprised to learn this morning that the RECORD lists me as not voting on final passage of the Omnibus Drug Act of 1986 last evening. That is not accurate. It must be a mechanical mishap.

I was present in the Chamber, cast a vote in the affirmative and voted not only on final passage but on all bills yesterday. I would like the RECORD to reflect my statement, and I ask unanimous consent that these remarks be recorded in the permanent RECORD immediately following that vote on final passage of H.R. 5484.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. HORTON. Mr. Speaker, last night during final passage of the omnibus drug bill of 1986, I was standing next to the gentleman from New York, Mr. FRED ECKERT, when the vote was taken. I saw the gentleman take his voting card out and cast his vote on final passage.

I know from my personal conversation during the vote that he had voted "yes."

I learned this morning that the RECORD showed that he had not voted. That is not accurate; he was present; he did vote; I was a witness to that.

Mr. Speaker, I ask unanimous consent that my remarks be recorded in the permanent RECORD immediately following the vote on the Omnibus Drug Act of 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT AND SUBCOMMITTEE ON MERCHANT MARINE OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON WEDNESDAY, SEPTEMBER 17, 1986, DURING THE 5-MINUTE RULE

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries'

Subcommittee on Fisheries and Wildlife Conservation and the Environment, in conjunction with the Subcommittee on Merchant Marine, and by itself, have permission to sit during the consideration of legislation under the 5-minute rule on Wednesday, September 17, 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANTI-APARTHEID ACT OF 1986

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 548, I move to take from the Speaker's table the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 548, the Senate amendment is considered as having been read.

The text of the Senate amendment is as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

Section 1. This Act may be cited as the "Comprehensive Anti-Apartheid Act of 1986".

TABLE OF CONTENTS

Sec. 2. The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

Sec. 4. Purpose.

TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

Sec. 101. Policy toward the Government of South Africa.

Sec. 102. Policy toward the African National Congress, etc.

Sec. 103. Policy toward the victims of apartheid.

Sec. 104. Policy toward other countries in Southern Africa.

Sec. 105. Policy toward "frontline" states.

Sec. 106. Policy toward a negotiated settlement.

Sec. 107. Policy toward international cooperation on measures to end apartheid.

Sec. 108. Policy toward necklacing.

Sec. 109. United States Ambassador to meet with Nelson Mandela.

Sec. 110. Policy toward the recruitment and training of black South Africans by United States employers.

TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

Sec. 201. Scholarships for the victims of apartheid.

Sec. 202. Human rights fund.

Sec. 203. Expanding participation in the South African economy.

Sec. 204. Export-Import Bank of the United States.

Sec. 205. Labor practices of the United States Government in South Africa.

Sec. 206. Welfare and protection of the victims of apartheid employed by

the United States.

Sec. 207. Employment practices of United States nationals in South Africa.

Sec. 208. Code of Conduct.

Sec. 209. Prohibition on assistance.

Sec. 210. Use of the African Emergency Reserve.

Sec. 211. Prohibition on assistance to any person or group engaging in "necklacing".

Sec. 212. Participation of South Africa in agricultural export credit and promotion programs.

TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

Sec. 301. Prohibition on the importation of krugerrands.

Sec. 302. Prohibition on the importation of military articles.

Sec. 303. Prohibition on the importation of products from parastatal organizations.

Sec. 304. Prohibition on computer exports to South Africa.

Sec. 305. Prohibition on loans to the Government of South Africa.

Sec. 306. Prohibition on air transportation with South Africa.

Sec. 307. Prohibitions on nuclear trade with South Africa.

Sec. 308. Government of South Africa bank accounts.

Sec. 309. Prohibition on importation of uranium and coal from South Africa.

Sec. 310. Prohibition on new investment in South Africa.

Sec. 311. Termination of certain provisions.

Sec. 312. Policy toward violence or terrorism.

Sec. 313. Termination of tax treaty and protocol.

Sec. 314. Prohibition on United States Government procurement from South Africa.

Sec. 315. Prohibition on the promotion of United States tourism in South Africa.

Sec. 316. Prohibition on United States Government assistance to, investment in, or subsidy for trade with, South Africa.

Sec. 317. Prohibition on sale or export of items on Munition List.

Sec. 318. Munitions list sales, notification.

Sec. 319. Prohibition on importation of South African agricultural products and food.

Sec. 320. Prohibition on importation of iron and steel.

Sec. 321. Prohibition on exports of crude oil and petroleum products.

Sec. 322. Prohibition on cooperation with the armed forces of South Africa.

Sec. 323. Prohibition on sugar imports.

TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

Sec. 401. Negotiating authority.

Sec. 402. Limitation on imports from other countries.

Sec. 403. Private right of action.

TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

Sec. 501. Additional measures.

Sec. 502. Lifting of prohibitions.

Sec. 503. Study of health conditions in the "homelands" areas of South Africa.

Sec. 504. Reports on South African imports.

Sec. 505. Study and report on the economy of southern Africa.

Sec. 506. Report on relations between other industrialized democracies and

September 12, 1986

CONGRESSIONAL RECORD — HOUSE

H 6767

should not preempt the rights of States like the State of California to determine where to invest \$13 billion of their pension or public funds. It is not the jurisdictional purpose of this bill to intrude or intervene in the internal affairs or a State or local government.

Mr. Speaker, there is a deepening crisis in South Africa and it is time to respond to the unambiguous appeals of thousands of South Africa's black majority who are pleading for us to take a stronger stand. It is time to take a stand and answer the calls of thousands of Americans who urge emphatically for sanctions against South Africa.

I believe H.R. 4868 may not go far enough, but it is a beginning and a new direction in our foreign policy in South Africa. More importantly, it is time we demonstrated our commitment to the principles of freedom and democracy not only in South Africa, but throughout the world.

The Senate bill is silent on the question of the preemption issue, but I strongly believe our rule clarifies this issue and establishes legislative history. I encourage my colleagues to support this rule.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, just to make it very clear what the rule actually does in its second section on preemption, it is not the intent of the committee, it is not the intent of this body, to pass any legislation which grants any new constitutional authority. It is merely our intent to make it clear that this legislation does not impact upon authority that States and local governments already have. If the State of California has the right to pass legislation affecting their own funds in regard to the situation in South Africa, then they continue to have that authority. If the State of Pennsylvania has the authority, then they continue to have that authority.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. No; I will not yield at this time.

If the University of Mississippi system has that authority, then they will continue to have that authority, and this legislation has no impact upon the legal or constitutional authority of any State or local municipality.

The gentleman has asked some very good questions about what will happen in South Africa, and admittedly this bill cannot guarantee peace in South Africa. This bill does not guarantee an end to apartheid in South Africa, but it does guarantee one thing, that the rest to the world, especially those suffering in South Africa, will know that this Congress witnessed the evil and would not turn away.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

Mr. SPEAKER pro tempore (Mr. DANIEL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 92, not voting 47, as follows:

[Roll No. 380]

YEAS—292

Akaka	Fish	Luken
Alexander	Flippo	Lungren
Anderson	Florio	MacKay
Andrews	Foglietta	Manton
Annunzio	Foley	Martin (IL)
Anthony	Ford (TN)	Martin (NY)
Applegate	Fowler	Martinez
Aspin	Frank	Matsui
AuCoin	Franklin	Mavroules
Barnard	Frenzel	Mazzoli
Barnes	Fuqua	McCain
Bates	Gallo	McCloskey
Bedell	Garcia	McCollum
Beilenson	Gaydos	McCurdy
Bennett	Gejdenson	McEwen
Bereuter	Gibbons	McGrath
Berman	Glickman	McHugh
Bevill	Gonzalez	McKernan
Biaggi	Gordon	McMillan
Billey	Gradison	Meyers
Boehlert	Gray (IL)	Mica
Boggs	Gray (PA)	Mikulski
Boland	Green	Miller (CA)
Bonior (MI)	Gregg	Miller (WA)
Bonker	Guarini	Mineta
Borski	Gunderson	Mitchell
Bosco	Hall (OH)	Moakley
Brown (CO)	Hamilton	Mollohan
Bruce	Hatcher	Montgomery
Bryant	Hawkins	Morrison (CT)
Bustamante	Hayes	Morrison (WA)
Byron	Hefner	Mrazek
Carper	Henry	Murphy
Carr	Hertel	Murtha
Chandler	Hillis	Natcher
Chappell	Hopkins	Neal
Clay	Horton	Nelson
Clinger	Howard	Nichols
Coats	Hoyer	Nowak
Collins	Hubbard	Oakar
Conte	Hughes	Oberstar
Conyers	Hutto	Obey
Cooper	Ireland	Olin
Coughlin	Jacobs	Ortiz
Courter	Jeffords	Panetta
Coyne	Jenkins	Pease
Daniel	Jones (NC)	Penny
Darden	Jones (TN)	Perkins
Daschle	Kanjorski	Pickle
Davis	Kaptur	Price
de la Garza	Kasich	Pursell
Dellums	Kastenmeier	Rahall
Derrick	Kemp	Rangel
Dicks	Kennelly	Ray
Dingell	Kildee	Regula
DioGuardi	Kindness	Reid
Dixon	Kleczka	Richardson
Donnelly	Kolbe	Rinaldo
Dorgan (ND)	Kolter	Roberts
Dowdy	Kostmayer	Robinson
Downey	LaFalce	Rodino
Duncan	Lantos	Roe
Durbin	Latta	Roemer
Dwyer	Leach (IA)	Rose
Dymally	Leath (TX)	Rostenkowski
Dyson	Lehman (CA)	Roth
Early	Lehman (FL)	Roukema
Eckart (OH)	Leland	Rowland (CT)
Edgar	Lent	Rowland (GA)
Edwards (CA)	Levin (MI)	Roybal
English	Levine (CA)	Russo
Erdreich	Lewis (CA)	Sabo
Evans (IA)	Lipinski	Savage
Evans (IL)	Lloyd	Saxton
Fascell	Long	Scheuer
Fazio	Lowry (WA)	Schneider
Feighan	Lujan	

Schuette	Stark
Schulze	Stokes
Schumer	Studds
Seiberling	Swift
Sensenbrenner	Tallon
Sharp	Tauke
Shelby	Tauzin
Sikorski	Thomas (GA)
Sisisky	Torres
Skelton	Torriceil
Slattery	Trafficant
Smith (FL)	Traxler
Smith (IA)	Udall
Smith (NE)	Valentine
Smith (NJ)	Vento
Snowe	Visclosky
Solarz	Volkmer
Spratt	Waldon
Staggers	Walgren
Stallings	Watkins
Stangeland	Weaver

Weber
Weiss
Wheat
Whitley
Whittaker
Whitten
Wilson
Wirth
Wise
Woipe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zschau

NAYS—92

Archer	Gingrich	Porter
Armey	Hall, Ralph	Quillen
Badham	Hammerschmidt	Ridge
Bartlett	Hansen	Ritter
Barton	Hendon	Rogers
Bateman	Hiler	Schaefer
Bentley	Holt	Shaw
Bilirakis	Hunter	Shumway
Boulter	Hyde	Shuster
Broomfield	Johnson	Siljander
Burton (IN)	Kramer	Skeen
Callahan	Lagomarsino	Slaughter
Cheney	Lewis (FL)	Smith, Denny
Coble	Lightfoot	(OR)
Coleman (MO)	Lott	Smith, Robert
Combust	Lowery (CA)	(NH)
Craig	Mack	Smith, Robert
Crane	Madigan	(OR)
Dannemeyer	Marlenee	Solomon
Daub	McCandless	Spence
DeLay	Michel	Stenholm
DeWine	Miller (OH)	Strang
Dickinson	Molinari	Stump
Dornan (CA)	Monson	Sundquist
Dreier	Moorhead	Sweeney
Eckert (NY)	Myers	Swindall
Edwards (OK)	Nielson	Taylor
Emerson	Oxley	Vander Jagt
Fawell	Packard	Vucanovich
Fiedler	Parris	Walker
Fields	Pashayan	Wolf
Gekas	Petri	

NOT VOTING—47

Ackerman	Crockett	Moore
Atkins	Ford (MI)	Owens
Boner (TN)	Frost	Pepper
Boucher	Gephardt	Rudd
Boxer	Gilman	Schroeder
Breaux	Goodling	Snyder
Brooks	Grotberg	St Germain
Brown (CA)	Hartnett	Stratton
Burton (CA)	Huckaby	Synar
Campbell	Jones (OK)	Thomas (CA)
Carney	Livingston	Towns
Chapman	Loeffler	Waxman
Chappie	Lundine	Whitehurst
Cobey	Markey	Williams
Coelho	McDade	Young (AK)
Coleman (TX)	McKinney	

[Roll No. 380]

□ 1045

Messrs. DICKINSON, GINGRICH, PACKARD, and RALPH M. HALL changed their votes from "yea" to "nay."

Mr. FRENZEL changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

September 12, 1986

CONGRESSIONAL RECORD — HOUSE

H 6769

- South Africa.
- Sec. 507. Study and report on deposit accounts of South African nationals in United States banks.
- Sec. 508. Study and report on the violation of the international embargo on sale and export of military articles to South Africa.
- Sec. 509. Report on Communist activities in South Africa.
- Sec. 510. Prohibition on the Importation of Soviet Gold Coins.
- Sec. 511. Economic support for disadvantaged South Africans.
- Sec. 512. Report on the African National Congress.

TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

- Sec. 601. Regulatory authority.
- Sec. 602. Congressional priority procedures.
- Sec. 603. Enforcement and penalties.
- Sec. 604. Applicability to evasions of Act.
- Sec. 605. Construction of Act.
- Sec. 606. State or local anti-apartheid laws, enforce.

DEFINITIONS

- SEC. 3. As used in this Act—
- (1) the term "Code of Conduct" refers to the principles set forth in section 208(a);
- (2) the term "controlled South African entity" means—
- (A) a corporation, partnership, or other business association or entity organized in South Africa and owned or controlled, directly or indirectly, by a national of the United States; or
- (B) a branch, office, agency, or sole proprietorship in South Africa of a national of the United States;
- (3) the term "loan"—
- (A) means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including—
- (i) overdrafts,
- (ii) currency swaps,
- (iii) the purchase of debt or equity securities issued by the Government of South Africa or a South African entity on or after the date of enactment of this Act,
- (iv) the purchase of a loan made by another person,
- (v) the sale of financial assets subject to an agreement to repurchase, and
- (vi) a renewal or refinancing whereby funds or credits are transferred or extended to the Government of South Africa or a South African entity, and
- (B) does not include—
- (i) normal short-term trade financing, as by letters of credit or similar trade credits;
- (ii) sales on open account in cases where such sales are normal business practice; or
- (iii) rescheduling of existing loans, if no new funds or credits are thereby extended to a South African entity or the Government of South Africa;
- (4) the term "new investment"—
- (A) means—
- (i) a commitment or contribution of funds or other assets, and
- (ii) a loan or other extension of credit, and
- (B) does not include—
- (i) the reinvestment of profits generated by a controlled South African entity into that same controlled South African entity or the investment of such profits in a South African entity;
- (ii) contributions of money or other assets where such contributions are necessary to enable a controlled South African entity to operate in an economically sound manner, without expanding its operations; or
- (iii) the ownership or control of a share or interest in a South African entity or a controlled South African entity or a debt or

equity security issued by the Government of South Africa or a South African entity before the date of enactment of this Act, or the transfer or acquisition of such a share, interest, or debt or equity security, if any such transfer or acquisition does not result in a payment, contribution of funds or assets, or credit to a South African entity, a controlled South African entity, or the Government of South Africa;

(5) the term "national of the United States" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States or is an alien lawfully admitted for permanent residence in the United States, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); or

(B) a corporation, partnership, or other business association which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia;

(6) the term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the Administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana Ciskei, and Venda; and

(7) the term "South African entity" means—

(A) a corporation, partnership, or other business association or entity organized in South Africa; or

(B) a branch, office, agency, or sole proprietorship in South Africa of a person that resides or is organized outside South Africa; and

(8) the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

PURPOSE

SEC. 4. The purpose of this Act is to set forth a comprehensive and complete framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa and lead to the establishment of a nonracial, democratic form of government. This Act sets out United States policy toward the Government of South Africa, the victims of apartheid, and the other states in southern Africa. It also provides the President with additional authority to work with the other industrial democracies to help end apartheid and establish democracy in 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;

H 6770

CONGRESSIONAL RECORD — HOUSE

September 12, 1986

(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 SOUTHERN 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.

POLICY TOWARD A NEGOTIATED SETTLEMENT

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 postapartheid 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 four-point 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 II—MEASURES TO ASSIST VICTIMS OF APARTHEID

SCHOLARSHIPS FOR THE VICTIMS OF APARTHEID

SEC. 201. (a) Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A)(i) Of the amounts authorized to be appropriated to carry out this section for the fiscal years 1987, 1988, and 1989, not less than \$4,000,000 shall be used in each such fiscal year to finance education, training, and scholarships for the victims of apartheid, including teachers and other educational professionals, who are attending universities and colleges in South Africa. Amounts available to carry out this subparagraph shall be provided in accordance with the provisions of section 802(c) of the International Security and Development Cooperation Act of 1985.

"(ii) Funds made available for each such fiscal year for purposes of chapter 4 of part II of this Act may be used to finance such education, training, and scholarships in lieu of an equal amount made available under this subparagraph.

"(B)(i) In addition to amounts used for purposes of subparagraph (A), the agency primarily responsible for administering this part, in collaboration with other appropriate departments or agencies of the United States, shall use assistance provided under this section or chapter 4 of part II of this Act to finance scholarships for students pursuing secondary school education in South Africa. The selection of scholarship recipients shall be by a nationwide panel or by regional panels appointed by the United States chief of diplomatic mission to South Africa.

September 12, 1986

CONGRESSIONAL RECORD — HOUSE

H 6771

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act for the fiscal years 1987, 1988, and 1989, up to an aggregate of \$1,000,000 may be used in each such fiscal year for purposes of this subparagraph.

"(C)(i) In addition to the assistance authorized in subparagraph (A), the agency primarily responsible for administering this part shall provide assistance for inservice teacher training programs in South Africa through such nongovernmental organizations as TOPS or teachers' unions.

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act, up to an aggregate of \$500,000 for the fiscal year 1987 and up to an aggregate of \$1,000,000 for the fiscal year 1988 may be used for purposes of this subparagraph, subject to standard procedures for project review and approval."

(b) The Foreign Assistance Act of 1961 is amended by inserting after section 116 the following new section:

"SEC. 117. ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.—In providing assistance under this chapter or under chapter 4 of part II of this Act for disadvantaged South Africans, priority shall be given to working with and through South African nongovernmental organizations whose leadership and staff are selected on a nonracial basis, and which have the support of the disadvantaged communities being served. The measure of this community support shall be the willingness of a substantial number of disadvantaged persons to participate in activities sponsored by these organizations. Such organizations to which such assistance may be provided include the Educational Opportunities Council, the South African Institute of Race Relations, READ, professional teachers' unions, the Outreach Program of the University of the Western Cape, the Funda Center in Soweto, SACHED, UPP Trust, TOPS, the Wilgespruit Fellowship Center (WFC), and civic and other organizations working at the community level which do not receive funds from the Government of South Africa."

HUMAN RIGHTS FUND

SEC. 202. (a) Section 116(e)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1984 and" and inserting in lieu thereof "1984."; and

(2) by inserting after "1985" a comma and the following: "and \$1,500,000 for the fiscal year 1986 and for each fiscal year thereafter".

(b) Section 116 of such Act is amended by adding at the end thereof the following new subsection:

"(f)(1) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, not less than \$500,000 shall be used for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners, and for support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies such as—

"(A) removal of black populations from certain geographic areas on account of race or ethnic origin,

"(B) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites,

"(C) residence restrictions based on race or ethnic origin,

"(D) restrictions on the rights of blacks to seek employment in South Africa and to live wherever they find employment in South Africa, and

"(E) restrictions which make it impossible for black employees and their families to be

housed in family accommodations near their place of employment.

"(2)(A) No grant under this subsection may exceed \$100,000.

"(B) The average of all grants under this paragraph made in any fiscal year shall not exceed \$70,000.

"(g) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, \$175,000 shall be used for direct assistance to families of victims of violence such as 'necklacing' and other such inhumane acts. An additional \$175,000 shall be made available to black groups in South Africa which are actively working toward a multi-racial solution to the sharing of political power in that country through nonviolent, constructive means."

EXPANDING PARTICIPATION IN THE SOUTH AFRICAN ECONOMY

SEC. 203. (a) The Congress declares that—

(1) the denial under the apartheid laws of South Africa of the rights of South African blacks and other nonwhites to have the opportunity to participate equitably in the South African economy as managers or owners of, or professionals in, business enterprises, and

(2) the policy of confining South African blacks and other nonwhites to the status of employees in minority-dominated businesses,

is an affront to the values of a free society.

(b) The Congress hereby—

(1) applauds the commitment of nationals of the United States adhering to the Code of Conduct to assure that South African blacks and other nonwhites are given assistance in gaining their rightful place in the South African economy; and

(2) urges the United States Government to assist in all appropriate ways the realization by South African blacks and other nonwhites of their rightful place in the South African economy.

(c) Notwithstanding any other provision of law, the Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans.

EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 204. Section 2(b)(9) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "(9) In" and inserting in lieu thereof "(9)(A) Except as provided in subparagraph (B), in"; and

(2) by adding at the end thereof the following:

"(B) The Bank shall take active steps to encourage the use of its facilities to guarantee, insure, extend credit, or participate in the extension of credit to business enterprises in South Africa that are majority owned by South African blacks or other nonwhite South Africans. The certification requirement contained in clause (c) of subparagraph (A) shall not apply to exports to or purchases from business enterprises which are majority owned by South African blacks or other nonwhite South Africans."

LABOR PRACTICES OF THE UNITED STATES GOVERNMENT IN SOUTH AFRICA

SEC. 205. (a) It is the sense of the Congress that the labor practices used by the United States Government—

(1) for the direct hire of South Africans,

(2) for the reimbursement out of official residence funds of South Africans and employees of South African organizations for their long-term employment services on behalf of the United States Government, and

(3) for the employment services of South Africans arranged by contract, should represent the best of labor practices in the United States and should serve as a model for the labor practices of nationals of the United States in South Africa.

(b) The Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall promptly take, without regard to any provision of law, the necessary steps to ensure that the labor practices applied to the employment services described in paragraphs (1) through (3) of subsection (a) are governed by the Code of Conduct. Nothing in this section shall be construed to grant any employee of the United States the right to strike.

WELFARE AND PROTECTION OF VICTIMS OF APARTHEID BY THE UNITED STATES

SEC. 206. (a) The Secretary of State shall acquire, through lease or purchase, residential properties in the Republic of South Africa that shall be made available, at rents that are equitable, to assist victims of apartheid who are employees of the United States Government in obtaining adequate housing. Such properties shall be acquired only in neighborhoods which would be open to occupancy by other employees of the United States Government in South Africa.

(b) There are authorized to be appropriated \$10,000,000 for the fiscal year 1987 to carry out the purposes of this section.

EMPLOYMENT PRACTICES OF UNITED STATES NATIONALS IN SOUTH AFRICA

SEC. 207. (a) Any national of the United States that employs more than 25 persons in South Africa shall take the necessary steps to insure that the Code of Conduct is implemented.

(b) No department or agency of the United States may intercede with any foreign government or foreign national regarding the export marketing activities in any country of any national of the United States employing more than 25 persons in South Africa that is not implementing the Code of Conduct.

CODE OF CONDUCT

SEC. 208. (a) The Code of Conduct referred to in sections 203, 205, 207, and 603 of this Act is as follows:

(1) desegregating the races in each employment facility;

(2) providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health; and

(7) implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(b) It is the sense of the Congress that in addition to the principles enumerated in

H 6772

CONGRESSIONAL RECORD — HOUSE

September 12, 1986

subsection (a), nationals of the United States subject to section 207 should seek to comply with the following principle: taking reasonable measures to extend the scope of influence on activities outside the workplace, including—

- (1) supporting the unrestricted rights of black businesses to locate in urban areas;
- (2) influencing other companies in South Africa to follow the standards of equal rights principles;
- (3) supporting the freedom of mobility of black workers to seek employment opportunities wherever they exist, and make provision for adequate housing for families of employees within the proximity of workers' employment; and
- (4) supporting the rescission of all apartheid laws.

(c) The President may issue additional guidelines and criteria to assist persons who are or may be subject to section 207 in complying with the principles set forth in subsection (a) of this section. The President may, upon request, give an advisory opinion to any person who is or may be subject to this section as to whether that person is subject to this section or would be considered to be in compliance with the principles set forth in subsection (a).

(d) The President may require all nationals of the United States referred to in section 207 to register with the United States Government.

(e) Notwithstanding any other provision of law, the President may enter into contracts with one or more private organizations or individuals to assist in implementing this section.

PROHIBITION ON ASSISTANCE

SEC. 209. No assistance may be provided under this Act to any group which maintains within its ranks any individual who has been found to engage in gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

USE OF THE AFRICAN EMERGENCY RESERVE

SEC. 210. Whenever the President determines that such action is necessary or appropriate to meet food shortages in southern Africa, the President is authorized to utilize the existing, authorized, and funded reserve entitled the "Emergency Reserve for African Famine Relief" to provide food assistance and transportation for that assistance.

PROHIBITION ON ASSISTANCE TO ANY PERSON OR GROUP ENGAGING IN "NECKLACING"

SEC. 211. No assistance may be provided under this Act, the Foreign Assistance Act of 1961, or any other provision of law to any individual, group, organization, or member thereof, or entity that directly or indirectly engages in, advocates, supports, or approves the practice of execution by fire, commonly known as "necklacing".

PARTICIPATION OF SOUTH AFRICA IN AGRICULTURAL EXPORT CREDIT AND PROMOTION PROGRAMS

SEC. 212. Notwithstanding any other provision of this Act or any other provision of law, the Secretary of Agriculture may permit South Africa to participate in agricultural export credit and promotion programs conducted by the Secretary at similar levels, and under similar terms and conditions, as other countries that have traditionally purchased United States agricultural commodities and the products thereof.

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 THE IMPORTATION OF PRODUCTS FROM PARASTATAL ORGANIZATIONS

SEC. 303. (a) Notwithstanding any other provision of law, no article which is grown, produced, manufactured by, marketed, or otherwise exported by a parastatal organization of South Africa may be imported into the United States, (1) except for agricultural products during the 12 month period from the date of enactment; and (2) except for those strategic minerals for which the President has certified to the Congress that the quantities essential for the economy or defense of the United States are unavailable from reliable and secure suppliers and except for any article to be imported pursuant to a contract entered into before August 15, 1986: Provided, That no shipments may be received by a national of the United States under such contract after April 1, 1987.

(b) For purposes of this section, the term "parastatal organization" means a corporation or partnership owned or controlled or subsidized by the Government of South Africa, but does not mean a corporation or partnership which previously received start-up assistance from the South African Industrial Development Corporation but which is now privately owned.

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.

(b) The prohibition contained in subsection (a) shall not apply to—

- (1) a loan or extension of credit for any education, housing, or humanitarian benefit which—

(A) is available to all persons on a nondiscriminatory basis; or

(B) is available in a geographic area accessible to all population groups without any legal or administrative restriction; or

(2) a loan or extension of credit for which an agreement is entered into before the date of enactment of this Act.

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.

(b)(1) The Secretary of State shall terminate 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, in accordance with the provisions of that agreement.

(2) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals from engaging in air transportation with respect to the United States.

(3) The Secretary of Transportation shall prohibit the takeoff and landing in South Africa of any aircraft by an air carrier owned, directly or indirectly, or controlled by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any State.

(c) The Secretary of Transportation may provide for such exceptions from the prohibition contained in subsection (a) or (b) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(d) For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

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;

(2) the Secretary of Commerce shall not issue any license for the export to South Africa of any goods or technology which have been determined, pursuant to section 309(c) of the Nuclear Non-Proliferation Act

September 12, 1986

CONGRESSIONAL RECORD — HOUSE

H 6773

of 1978, to be of significance for nuclear explosive purposes for use in, or judged by the President to be likely to be diverted to, a South African production or utilization facility;

(3) the Secretary of Energy shall not, under section 57b.(2) of the Atomic Energy Act, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa; and

(4) no goods, technology, source or special nuclear material, facilities, components, items, or substances referred to in clauses (1) through (3) shall be approved by the Nuclear Regulatory Commission or an executive branch agency for retransfer to South Africa,

unless the Secretary of State determines and certifies 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 is a party to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, or otherwise maintains International Atomic Energy Agency safeguards on all its peaceful nuclear activities, as defined in the Nuclear Non-Proliferation Act of 1978.

(b) Nothing in this section shall preclude—

(1) any export, retransfer, or activity generally licensed or generally authorized by the Nuclear Regulatory Commission or the Department of Commerce or the Department of Energy; or

(2) assistance for the purpose of developing or applying International Atomic Energy Agency or United States bilateral safeguards, for International Atomic Energy Agency programs generally available to its member states, for reducing the use of highly enriched uranium in research or test reactors, or for other technical programs for the purpose of reducing proliferation risks, such as programs to extend the life of reactor fuel and activities envisaged by section 223 of the Nuclear Waste Policy Act of 1982 or which are necessary for humanitarian reasons to protect the public health and safety.

(c) The prohibitions contained in subsection (a) shall not apply with respect to a particular export, retransfer, or activity, or a group of exports, retransfers, or activities, if the President determines that to apply the prohibitions would be seriously prejudicial to the achievement of United States nonproliferation objectives or would otherwise jeopardize the common defense and security of the United States and, if at least 60 days before the initial export, retransfer, or activity is carried out, the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth that determination, together with his reasons therefor.

GOVERNMENT OF SOUTH AFRICA BANK ACCOUNTS

SEC. 308. (a) A United States depository institution may not accept, receive, or hold a deposit account from the Government of South Africa or from any agency or entity owned or controlled by the Government of South Africa except for such accounts which may be authorized by the President for diplomatic or consular purposes. For purposes of the preceding sentence, the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

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

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,

that is 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 post-apartheid 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 practiced 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.

TERMINATION OF TAX TREATY AND PROTOCOL

SEC. 313. The Secretary of State shall terminate immediately the following convention and protocol, in accordance with its terms, the Convention Between the Government of the United States of America and the Government of the Union of South Africa for the Avoidance of Double Taxation and for Establishing Rules of Reciprocal Administrative Assistance With Respect to Taxes on Income, done at Pretoria on December 13, 1946, and the protocol relating thereto.

PROHIBITION ON UNITED STATES GOVERNMENT PROCUREMENT FROM SOUTH AFRICA

SEC. 314. On or after the date of enactment of this Act, no department, agency or any other entity of the United States Government may enter into a contract for the procurement of goods or services from parastatal organizations except for items necessary for diplomatic and consular purposes.

PROHIBITION ON THE PROMOTION OF UNITED STATES TOURISM IN SOUTH AFRICA

SEC. 315. None of the funds appropriated or otherwise made available by any provision of law may be available to promote United States tourism in South Africa.

PROHIBITION ON UNITED STATES GOVERNMENT ASSISTANCE TO, INVESTMENT IN, OR SUBSIDY FOR TRADE WITH, SOUTH AFRICA

SEC. 316. None of the funds appropriated or otherwise made available by any provision of law may be available for any assistance to investment in, or any subsidy for trade with, South Africa, including but not limited to funding for trade missions in South Africa and for participation in exhibitions and trade fairs in South Africa.

PROHIBITION ON SALE OR EXPORT OF ITEMS ON MUNITIONS LIST

SEC. 317. (a) Except as provided in subsection (b), no item contained on the United States Munition List which is subject to the jurisdiction of the United States may be exported to South Africa.

(b) Subsection (a) does not apply to any item which is not covered by the United Nations Security Council Resolution 418 of November 4, 1977, and which the President determines is exported solely for commercial purposes and not exported for use by the armed forces, police, or other security forces of South Africa or for other military use.

(c) The President shall prepare and submit to Congress every six months a report describing any license issued pursuant to subsection (b).

MUNITIONS LIST SALES, NOTIFICATION

SEC. 318. (a) Notwithstanding any other provision of this Act, the President shall:

(i) notify the Congress of his intent to allow the export to South Africa any item

H 6774

CONGRESSIONAL RECORD — HOUSE

September 12, 1986

which is on the United States Munition List and which is not covered by the United Nations Security Council Resolution 418 of November 4, 1977, and

(ii) certify that such item shall be used solely for commercial purposes and not exported for use by the armed forces, police, or other security forces of South Africa or for other military use.

(b) The Congress shall have 30 calendar days of continuous session (computed as provided in section 906(b) of title 5, United States Code) to disapprove by joint resolution of any such sale.

PROHIBITION ON IMPORTATION OF SOUTH AFRICAN AGRICULTURAL PRODUCTS AND FOOD

SEC. 319. Notwithstanding any other provision of law, no:

(1) agricultural commodity, product, by-product or derivative thereof,

(2) article that is suitable for human consumption, that is a product of South Africa may be imported into the customs territory of the United States after the date of enactment of this Act.

PROHIBITION ON IMPORTATION OF IRON AND STEEL

SEC. 320. Notwithstanding any other provision of law, no iron or steel produced in South Africa may be imported into the United States.

PROHIBITION ON EXPORTS OF CRUDE OIL AND PETROLEUM PRODUCTS

SEC. 321. (a) No crude oil or refined petroleum product which is subject to the jurisdiction of the United States or which is exported by a person subject to the jurisdiction of the United States may be exported to South Africa.

(b) Subsection (a) does not apply to any export pursuant to a contract entered into before the date of enactment of this Act.

PROHIBITION ON COOPERATION WITH THE ARMED FORCES OF SOUTH AFRICA

SEC. 322. No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. Each such activity shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947.

PROHIBITIONS ON SUGAR IMPORTS

SEC. 323. (a)(1) Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of the Republic of South Africa may be imported into the United States after the date of enactment of this Act.

(2) The aggregate quantity of sugars, sirups, and molasses that—

(A) are products of the Philippines, and

(B) may be imported into the United States (determined without regard to this paragraph) under any limitation imposed by law on the quantity of all sugars, sirups, and molasses that may be imported into the United States during any period of time occurring after the date of enactment of this Act,

shall be increased by the aggregate quantity of sugars, sirups, and molasses that are products of the Republic of South Africa which may have been imported into the United States under such limitation during such period if this section did not apply to such period.

(b)(1) Paragraph (c)(i) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended—

(A) by striking out "13.5" in the item relating to the Philippines in the table and inserting in lieu thereof "15.8", and

(B) by striking out the item relating to the Republic of South Africa in the table.

(2) Paragraph (c) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by adding at the end thereof the following new subparagraph:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote—

"(A) the percentage allocation made to the Philippines under this paragraph may not be reduced, and

"(B) no allocation may be made to the Republic of South Africa,

in allocating any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in items 155.20 and 155.30 which may be entered."

TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

NEGOTIATING AUTHORITY

SEC. 401. (a) It is the policy of the United States to seek international cooperative agreements with the other industrialized democracies to bring about the complete dismantling of apartheid. Sanctions imposed under such agreements should be both direct and official executive or legislative acts of governments. The net economic effect of such cooperative should be measurably greater than the net economic effect of the measures imposed by this Act.

(b)(1) Negotiations to reach international cooperative arrangements with the other industrialized democracies and other trading partners of South Africa on measures to bring about the complete dismantling of apartheid should begin promptly and should be concluded not later than 180 days from the enactment of this Act. During this period, the President or, at his direction, the Secretary of State should convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions against South Africa to bring about the complete dismantling of apartheid.

(2) The President shall, not less than 180 days after the date of enactment of this Act, submit to the Congress a report containing—

(A) a description of United States efforts to negotiate multilateral measures to bring about the complete dismantling of apartheid; and

(B) a detailed description of economic and other measures adopted by the other industrialized countries to bring about the complete dismantling of apartheid, including an assessment of the stringency with which such measures are enforced by those countries.

(c) If the President successfully concludes an international agreement described in subsection (b)(1), he may, after such agreement enters into force with respect to the United States, adjust, modify, or otherwise amend the measures imposed under any provision of sections 301 through 310 to conform with such agreement.

(d) Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 30 days before the day on which he enters into such agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits to the House of Representatives and to the Senate a document

containing a copy of the final legal text of such agreement, together with—

(A) a description of any administrative action proposed to implement such agreement and an explanation as to how the proposed administrative action would change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interest of United States foreign policy and as to why the proposed administrative action is required or appropriate to carry out the agreement; and

(3) a joint resolution approving such agreement has been enacted within 30 days of transmittal of such document to the Congress.

(e) It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to propose that the United Nations Security Council, pursuant to Article 41 of the United Nations Charter, impose measures against South Africa of the same type as are imposed by this Act.

LIMITATION ON IMPORTS FROM OTHER COUNTRIES

SEC. 402. The President is authorized to limit the importation into the United States of any product or service of a foreign country to the extent to which such foreign country benefits from, or otherwise takes commercial advantage of, any sanction or prohibition against any national of the United States imposed by or under this Act.

PRIVATE RIGHT OF ACTION

SEC. 403. (a) Any national of the United States who is required by this Act to terminate or curtail business activities in South Africa may bring a civil action for damages against any person, partnership, or corporation that takes commercial advantage or otherwise benefits from such termination or curtailment.

(b) The action described in subsection (a) may only be brought, without respect to the amount in controversy, in the United States district court for the District of Columbia or the Court of International Trade. Damages which may be recovered include lost profits and the cost of bringing the action, including a reasonable attorney's fee.

(c) The injured party must show by a preponderance of the evidence that the damages have been the direct result of defendant's action taken with the deliberate intent to injure the party.

TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

ADDITIONAL MEASURES

SEC. 501. (a) It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within twelve months of the date of enactment of this Act in ending the system of apartheid and establishing a nonracial democracy.

(b) The President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within twelve months of the date of enactment of this Act, and every twelve months thereafter, a report on the extent to which significant progress has been made toward ending the system of apartheid, including—

(1) an assessment of the extent to which the Government of South Africa has taken the steps set forth in section 101(b) of this Act;

(2) an analysis of any other actions taken by the Government of South Africa in ending the system of apartheid and moving toward a nonracial democracy; and

(3) the progress, or lack of progress, made in reaching a negotiated settlement to the conflict in South Africa.

September 12, 1986

CONGRESSIONAL RECORD — HOUSE

H 6775

(c) If the President determines that significant progress has not been made by the Government of South Africa in ending the system of apartheid and establishing a non-racial democracy, the President shall include in the report required by subsection (b) a recommendation on which of the following additional measures should be imposed:

(1) a prohibition on the importation of steel from South Africa;

(2) a prohibition on military assistance to those countries that the report required by section 508 identifies as continuing to circumvent the international embargo on arms and military technology to South Africa;

(3) a prohibition on the importation of food, agricultural products, diamonds, and textiles from South Africa;

(4) a prohibition on United States banks accepting, receiving, or holding deposit accounts from South African nationals; and

(5) a prohibition on the importation into the United States of strategic minerals from South Africa.

(d) A joint resolution which would enact part or all of the measures recommended by the President pursuant to subsection (c) shall be considered in accordance with the provisions of section 602 of this Act.

LIFTING OF PROHIBITIONS

SEC. 502. (a) Notwithstanding any other provision of this Act, the President may lift any prohibition contained in this Act imposed against South Africa if the President determines, after six months from the date of the imposition of such prohibition, and so reports to Congress, that such prohibition would increase United States dependence upon any member country or observer country of the Council for Mutual Economic Assistance (C.M.E.A.) for the importation of coal or any strategic and critical material by an amount which exceeds by weight the average amounts of such imports from such country during the period 1981 through 1985.

(b)(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Commerce shall prepare and transmit to the Congress a report setting forth for each country described in subsection (a)—

(A) the average amount of such imports from such country during the period of 1981 through 1985; and

(B) the current amount of such imports from such country entering the United States.

(2) Thirty days after transmittal of the report required by paragraph (1) and every thirty days thereafter, the President shall prepare and transmit the information described in paragraph (1)(B).

STUDY OF HEALTH CONDITIONS IN THE "HOMELANDS" AREAS OF SOUTH AFRICA

SEC. 503. The Secretary of State shall conduct a study to examine the state of health conditions and to determine the extent of starvation and malnutrition now prevalent in the "homelands" areas of South Africa and shall, not later than December 1, 1986, prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the results of such study.

REPORT ON SOUTH AFRICAN IMPORTS

SEC. 504. (a) Not later than 90 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the extent to which the United States is dependent on the importation from South Africa of—

- (1) chromium,
- (2) cobalt,

- (3) manganese,
- (4) platinum group metals,
- (5) ferroalloys, and

(6) other strategic and critical materials (within the meaning of the Strategic and Critical Materials Stock Piling Act).

(b) The President shall develop a program which reduces the dependence, if any, of the United States on the importation from South Africa of the materials identified in the report submitted under subsection (a).

STUDY AND REPORT ON THE ECONOMY OF SOUTHERN AFRICA

SEC. 505. (a) The President shall conduct a study on the role of American assistance in southern Africa to determine what needs to be done, and what can be done to expand the trade, private investment, and transport prospects of southern Africa's landlocked nations.

(b) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study conducted under subsection (a).

REPORT ON RELATIONS BETWEEN OTHER INDUSTRIALIZED DEMOCRACIES AND SOUTH AFRICA

SEC. 506. (a) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing a detailed assessment of the economic and other relationships of other industrialized democracies with South Africa. Such report shall be transmitted without regard to whether or not the President successfully concluded an international agreement under section 401.

(b) For purposes of this section, the phrase "economic and other relationships" includes the same types of matters as are described in sections 201, 202, 204, 205, 206, 207, sections 301 through 307, and sections 309 and 310 of this Act.

STUDY AND REPORT ON DEPOSIT ACCOUNTS OF SOUTH AFRICAN NATIONALS IN UNITED STATES BANKS

SEC. 507. (a)(1) The Secretary of the Treasury shall conduct a study on the feasibility of prohibiting each depository institution from accepting, receiving, or holding a deposit account from any South African national.

(2) For purposes of paragraph (1), the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

(b) Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report detailing the findings of the study required by subsection (a).

STUDY AND REPORT ON THE VIOLATION OF THE INTERNATIONAL EMBARGO ON SALE AND EXPORT OF MILITARY ARTICLES TO SOUTH AFRICA

SEC. 508. (a) The President shall conduct a study on the extent to which the international embargo on the sale and exports of arms and military technology to South Africa is being violated.

(b) Not later than 179 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study required by subsection (a), including an identification of those countries engaged in such sale or export, with a view to terminating United States military assistance to those countries.

REPORT ON COMMUNIST ACTIVITIES IN SOUTH AFRICA

SEC. 509. (a) Not later than 90 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate an unclassified version of a report, prepared with the assistance of the Director of the Central Intelligence Agency, the Director of the Defense Intelligence Agency, the National Security Advisor, and other relevant United States Government officials in the intelligence community, which shall set forth the activities of the Communist Party in South Africa, the extent to which Communists have infiltrated the many black and nonwhite South African organizations engaged in the fight against the apartheid system, and the extent to which any such Communist infiltration or influence sets the policies and goals of the organizations with which they are involved.

(b) At the same time the unclassified report in subsection (a) is transmitted as set forth in that subsection, a classified version of the same report shall be transmitted to the chairman of the Select Committee on Intelligence of the Senate and of the Permanent Select Committee on Intelligence of the House of Representatives.

PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS

SEC. 510. (a) No person, including a bank, may import into the United States any gold coin minted in the Union of Soviet Socialist Republics or offered for sale by the Government of the Union of Soviet Socialist Republics.

(b) For purposes of this section, the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) Any individual who violates this section or any regulations issued to carry out this section shall be fined not more than five times the value of the rubles involved.

ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS

SEC. 511 (a) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 535. ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS.—(a)(1) Up to \$40,000,000 of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1987 and each fiscal year thereafter shall be available for assistance for disadvantaged South Africans. Assistance under this section shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on non-racial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise, alternative education and community development programs.

"(2) Up to \$3,000,000 of the amounts provided in each fiscal year pursuant to subsection (a) shall be available for training programs for South Africa's trade unionists.

"(b) Assistance provided pursuant to the section shall be made available notwithstanding any other provision of law and shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. Nothing in this subsection may be construed to prohibit programs which are

H 6776

CONGRESSIONAL RECORD — HOUSE

September 12, 1986

consistent with subsection (a) and which award scholarships to students who choose to attend South African-supported institutions."

(b) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall prepare and transmit to the Congress a report describing the strategy of the President during the five-year period beginning on such date regarding the assistance of black Africans pursuant to section 535 of the Foreign Assistance Act of 1961 and describing the programs and projects to be funded under such section.

REPORT ON THE AFRICAN NATIONAL CONGRESS

SEC. 512. (a) Not later than 180 days after the date of enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report on actual and alleged violations of the Foreign Agents Registration Act of 1938, and the status of any investigation pertaining thereto, by representatives of governments or opposition movements in Sub-Saharan Africa, including, but not limited to, members or representatives of the African National Congress.

(b) For purposes of conducting any investigations necessary in order to provide a full and complete report, the Attorney General shall have full authority to utilize civil investigative demand procedures, including but not limited to the issuance of civil subpoenas.

TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

REGULATORY AUTHORITY

SEC. 601. The President shall issue such rules, regulations, licenses, and orders as are necessary to carry out the provisions of this Act, including taking such steps as may be necessary to continue in effect the measures imposed by Executive Order 12532 of September 9, 1985, and Executive Order 12535 of October 1, 1985, and by any rule, regulation, license, or order issued thereunder (to the extent such measures are not inconsistent with this Act).

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 602. (a)(1) The provisions of this subsection apply to the consideration in the House of Representatives of a joint resolution under sections 311(b), 401(d), and 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Affairs of the House of Representatives.

(3)(A) At any time after the joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(b)(1) The provisions of this subsection apply to the consideration in the Senate of a joint resolution under section 311(b), 401(d), or 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Relations of the Senate.

(3) A joint resolution described in this section shall be considered in the Senate in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(A) references in such paragraphs to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on Foreign Relations of the Senate; and

(B) amendments to the joint resolution are in order.

(c) For purposes of this subsection, the term "joint resolution" means only—

(A) in the case of section 311(b), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the report described in section 311(b) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on the report of the President containing the determination required by section 311(b) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such determination," with the date of the receipt of the report inserted in the blank;

(B) in the case of section 401(d)(3), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the document described in section 401(d)(2) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on

the text of the international agreement described in section 401(d)(3) of the Comprehensive Anti-Apartheid Act of 1986, approves of such agreement," with the date of the receipt of the text of the agreement inserted in the blank; and

(C) in the case of section 501(d), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the determination of the President pursuant to section 501(c) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on a determination of the President under section 501(c) of the Comprehensive Anti-Apartheid Act of 1986, approves the President's determination," with the date of the receipt of the determination inserted in the blank.

(d) As used in this section, the term "legislative day" means a day on which the House of Representatives or the Senate is in session, as the case may be.

(e) This section is enacted—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such it is deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the

case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

ENFORCEMENT AND PENALTIES

SEC. 603. (a)(1) The President with respect to his authorities under section 601 shall take the necessary steps to ensure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders.

(2) In ensuring such compliance, the President may—

(A) require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction described in this Act either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which a foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this Act; and

(B) conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) Except as provided in subsection (d)—

(1) any person that violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be subject to a civil penalty of \$50,000;

(2) any person, other than an individual, that willfully violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be fined not more than \$1,000,000;

(3) any individual who willfully violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than \$50,000, or imprisoned not more than 10 years, or both; and

(4) any individual who violates section 301(a) or any regulations issued to carry out that section shall, instead of the penalty set forth in paragraph (2), be fined not more than 5 times the value of the krugerrands or gold coins involved.

(c)(1) Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who knowingly and willfully carried out such act or practice, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(2) Paragraph (1) shall not apply in the case of a violation by an individual of section 301(a) of this Act or of any regulation issued to carry out that section.

(3) A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d)(1) Any person who violates any regulation issued under section 208(d) or who, in a registration statement or report required by the Secretary of State, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall be subject to a

September 12, 1986

CONGRESSIONAL RECORD — HOUSE

H 6777

civil penalty of not more than \$10,000 imposed by the Secretary of State. The provisions of subsections (d), (e), and (f) of section 11 of the Export Administration Act of 1979 shall apply with respect to any such civil penalty.

(2) Any person who commits a willful violation under paragraph (1) shall upon conviction be fined not more than \$1,000,000 or imprisoned not more than 2 years, or both.

(3) Nothing in this section may be construed to authorize the imposition of any penalty for failure to implement the Code of Conduct.

APPLICABILITY TO EVASIONS OF ACT

SEC. 604. This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations.

CONSTRUCTION OF ACT

SEC. 605. Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in this Act.

STATE OR LOCAL ANTI-APARTHEID LAWS, ENFORCE

SEC. 606. Notwithstanding section 210 of Public Law 99-349 or any other provision of law—

(1) no reduction in the amount of funds for which a State or local government is eligible or entitled under any Federal law may be made, and

(2) no other penalty may be imposed by the Federal Government,

by reason of the application of any State or local law concerning apartheid to any contract entered into by a State or local government for 90 days after the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

Before the gentleman from Florida is recognized, would the gentleman from California [Mr. DIXON] take the chair.

The SPEAKER pro tempore (Mr. DIXON). The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, the matter which I bring before the House today is intended to assist in the formulation of a bipartisan United States policy toward South Africa, encouraging that Government to dismantle its system of apartheid.

During the 99th Congress, the House has passed several bills imposing sanctions on South Africa—none have been enacted into law. By approving the motion which I offer today, we have a real opportunity to have United States policy toward South Africa enacted into law. Both Houses of Congress have recognized the need for a change in U.S. policy. The motion I offer today is intended to bring about a change in that policy.

On June 18, the House passed a strong sanctions bill, H.R. 4868. The Senate amendment to that bill, while not as strong as the House bill, is a good bill. It will send a strong bipartisan message to the Government and people of South Africa.

I know many Members would like to strengthen the bill. It is important for the Congress to send a strong message South Africa but it is equally important to send a message which has the support of both Houses. In light of the shortness of time remaining in this session and in light of the need to expedite sending this important legislative policy initiative to the President, H.R. 4868, as amended by the Senate, is the most appropriate vehicle at this time.

Let me briefly discuss the resolution contained in the rule, House Resolution 548. During the debate on this matter statements were made that this legislation preempts State and local anti-apartheid laws. The resolution House Resolution 548 simply states that it is not the intent of the House of Representatives that this bill limit or preempt State of local financial or commercial activity respecting South Africa.

Mr. Speaker, I urge adoption of the motion.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROOMFIELD asked and was given permission to revise and extend his remarks, and to include extraneous materials.)

Mr. BROOMFIELD. Mr. Speaker, in the face of a steadily deteriorating situation at home, and an increasingly united opposition abroad, the South African Government continues to cling to the debilitating system of apartheid. Let no one claim that there is confusion on this point: The Congress, the administration, and the American people deplore the system of apartheid and the human toll that lies in its wake.

Today, the House considers whether or not to accept the Senate amendment to H.R. 4868, the Anti-Apartheid Act of 1986. This amendment, of course, is substantially different from the bill passed by the House in late June. I believe it is a better bill than the more extreme legislation passed by the House. However, in my judgment, the House should have appointed conferees to work out the differences in the respective bills with our Senate colleagues. I believe that many constructive changes could have emerged from a conference.

□ 1105

However, the Democrat leadership in the House has apparently chosen to accept in its entirety the Senate bill.

I want to say, Mr. Speaker, in fairness, there are a number of aspects of this bill before us that will, if enacted, do a great deal of good. For example, title II contains provisions earmarking funds for scholarships for the victims of apartheid. It sets forth guidelines for assistance to disadvantaged South Africans. It earmarks funds for the promotion of human rights and takes steps to encourage blacks to use Export Import Bank facilities.

In addition, it does not require disinvestment, but requires U.S. companies to comply with a rigorous set of fair employment principles.

These are positive actions that provide assistance to nonwhite South Africans while maintaining numerous benefits to the black majority associated with the presence of the American business community in that country.

In other titles, the bill clearly sets forth U.S. policy toward South Africa. It calls for negotiations to reach international agreements incorporating sanctions against South Africa. Lastly, it prohibits after 90 days, the enforcement of State and local anti-apartheid laws with respect to contracts funded in whole or in part by the Federal Government.

Mr. Speaker, it seems to me in response to this latter point that our Democrat colleagues included in the rule we just adopted a most unusual and probably unconstitutional provision. Section 2 of the rule provides that upon adoption of H.R. 4868, the House shall be considered to have adopted a House resolution containing a statement of intent of the House regarding the issue of preemption. Mr. Speaker, this is a highly unusual and alarming procedural twist which appears to attempt to reshape the bill passed by the other body without going to conference. The language of the rule appears to try to rewrite our Constitution to allow States and localities to independently conduct their own foreign policies.

I want to conclude by saying it is unfortunate that this unusual procedural situation has developed. It can only jeopardize the bill's acceptance by the President. The White House has notified me this morning that the President is strongly opposed to enactment of this legislation in its present form.

Mr. WOLPE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. LELAND].

(Mr. LELAND asked and was given permission to revise and extend his remarks.)

Mr. LELAND. Mr. Speaker, today we are considering legislation that will put the United States on the legislative record against the continuation of South Africa's brutal and oppressive policy of racism.

Unfortunately, the legislation before us today is not as comprehensive as the legislation passed earlier by this body on June 18, 1986, which would have put an end to all United States investment in and trade with South Africa.

South Africa is the only country in the world that judges how much freedom, justice, or property a person is entitled to strictly on the basis of his or her color. After decades of this racial oppression by the minority government in Pretoria the American public—and many in the world community—has now developed a clear and unequivocal abhorrence to the continuation of apartheid and any action, or inaction, on the part of the United States that could in any way support the maintenance of this hideous and violent policy.

H 6778

CONGRESSIONAL RECORD — HOUSE

September 12, 1986

There has been some difference of opinion among Members of Congress on the effect of the implementation of economic sanctions on Pretoria's continuation of apartheid. Yet there are many, and the number is steadily growing, who believe that apartheid has been allowed to exist far too long and the only nonviolent action that will help facilitate the demise of that hideous policy is the implementation of economic sanctions.

The bill before us today is an initial step to legislatively demonstrate to South Africa and the world our great Nation's strong disapproval of apartheid. Although I would have liked to see this bill strengthened in conference, I recognize the political realities and time constraints of Congress and the White House. People in South Africa are dying every day. The United States cannot morally and politically afford to support our current political and commercial relationship with South Africa. It is for this reason, that I reluctantly support this legislation which has a strong chance of becoming law soon rather than fighting now to achieve a definitive anti-apartheid bill that would not pass the other body or be signed by the President.

I was very concerned, however, over the other body's statutory silence on the question of Federal preemption over more stringent and comprehensive local and State anti-apartheid ordinances and laws already approved by about 20 States and 80 cities. Because of my concern not to negate the results achieved by millions of Americans on the local and State levels, I actively worked with other Members of the Congressional Black Caucus to ensure that the rule for consideration of this bill would explicitly state this body's intention not to preempt local and State anti-apartheid ordinances. The inclusion of this language in the rule already adopted by the House helps us establish a legislative history of our intent not to preempt the advances against apartheid made on the local and State levels. I would like to reiterate the wording of that rule at this point in my statement:

Resolved, That in passing the bill, H.R. 4868, as amended by the Senate, it is not the intent of the House of Representatives that the bill limit, preempt, or affect, in any fashion, the authority of any State or local government, or the District of Columbia, or of any commonwealth territory, or possession of the United States, or political subdivision thereof to restrict, or otherwise regulate any financial, or commercial activity respecting South Africa.

Although this does not ensure the retention of the significant gains made by Americans across our great Nation, it does allow us to go on the record stating our intention not to supersede local and State anti-apartheid ordinances and laws.

The inclusion of this language in the rule is significant in protecting the strides already made in the struggle to end apartheid.

I, therefore, rise in support of the measure before us which I am hopeful will become law soon and help accelerate the collapse of apartheid in South Africa. Thank you.

Mr. WOLPE. Mr. Speaker, I yield myself 6 minutes.

(Mr. WOLPE asked and was given permission to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, the legislation that is before us would impose tough, effective sanctions against

South Africa; sanctions which would enable American policy to turn away from the failure of so-called constructive engagement.

The bill is not as strong as the original House version, and not as strong as many of us had hoped for. While the legislation does not go as far as we would have liked, there is no quarrel that it is effective and that House passage of its original legislation, in the form of the stronger substitute offered by the gentleman from California [Mr. DELLUMS], has played a key role in moving this process forward to where we are today.

I want to pay tribute to the gentleman from California [Mr. DELLUMS], the gentleman from Pennsylvania [Mr. GRAY], the author of the original House version of the legislation, and to so many others such as Mr. SOLARZ, Mr. WHEAT, Mr. LELAND, Mr. FISH, Mr. MILLER, Mr. ROEMER, and Mr. GILMAN, all of whom have had a key role in providing the leadership to the anti-apartheid movement nationally and within this body.

H.R. 4868, as amended by the Senate, bans imports of textiles, agricultural products, coal, uranium, and steel from South Africa, as well as any products produced, manufactured, marketed, or otherwise exported by South African para-statal agencies. It bans virtually all new investment of U.S. dollars in South Africa, and the overwhelming majority of new loans.

It ends landing rights for South African-owned aircraft in the United States, and vice versa. It contains a number of lesser sanctions, including legislative codification of the sanctions contained in the President's Executive orders of September 9 and October 11 of 1985.

Furthermore, the sanctions may not be lifted unless and until South Africa meets four of five stiff conditions aimed at fostering a negotiated political settlement with the representatives of the black majority and the dismantling of the apartheid system.

Finally, the bill threatens further sanctions within a year if the South African Government has not made substantial progress in ending apartheid and establishing a nonracial democracy.

Mr. Speaker, as chairman of the Subcommittee on Africa, I want to state my own view that there is nothing whatever in this bill that seeks to preempt or supersede State and city laws and policies which seek to ensure that the funds of those entities are used and invested in a socially responsible manner with respect to apartheid. In this regard, I would like to insert in the RECORD an excellent editorial by Gerald Warburg, foreign policy adviser to Senator ALAN CRANSTON, which was published in today's Los Angeles Times:

[From the Los Angeles Times, Sept. 12, 1986]

DIVESTITURE WILL SURVIVE
(By Gerald Warburg)

Will the South Africa sanctions legislation pending in Congress undermine California's new anti-apartheid law? Can federal authority require local governments to profit from apartheid against their will?

The answer to both vexing questions is yes, according to proponents of a sweeping federal preemption doctrine recently advanced by Sen. Richard G. Lugar (R-Ind.).

The specter that enacting the pending congressional measure on anti-apartheid trade sanctions would strike down broader state divestiture legislation has alarmed grass-roots activists. At stake is the fate of as many as 20 state statutes and more than 80 city and county regulations that address the South Africa issue.

There is valid reason for concern when one hears the views of Lugar, the respected Foreign Relations Committee chairman: "When we get into anti-apartheid law, the federal government is speaking for the nation . . . we cannot have individual states and cities establishing their own foreign policies."

Lugar rests his case on the presumptive constitutional grant of federal supremacy in international affairs, and concludes that any federal legislation on South Africa—no matter how limited its scope—preempts all state legislation on the matter.

But before the activists' concern turns to panic, the full record needs to be scrutinized. There is no reason for California to back away from the strong measures adopted in Sacramento. Lugar's is a minority opinion—one unlikely to prevail if pressed in a legal challenge.

"When I use a word, it means just what I choose it to mean," says the Queen in "Alice In Wonderland." So it often is with lawmakers struggling to place their own interpretation on legislation during the drafting process. Lugar currently is advancing his own preemption thesis as a selling point to persuade the White House and corporate leaders to live with the Senate bill, which Lugar maintains would at least get local authorities off their backs on the emotionally charged South Africa issue.

Yet the "Lugar bill" actually is a cut-and-paste job of legislation drafted by a half-dozen senators. These co-authors utterly rejected Lugar's interpretation, as the following statements culled from the long and tortured legislative history of the South Africa debate illustrate.

William Proxmire of Wisconsin, senior Democrat on the Banking Committee: "We have no intention of preempting state divestment laws."

Alan Cranston of California, Democratic floor manager of the measure: "Courts always recognize the distinction between the state as market participant and the state as a market regulator . . . we have no intention of compelling sovereign states to invest in companies that they do not wish to invest in."

Edward M. Kennedy of Massachusetts, senior Democrat on the Judiciary Committee: "The law is clear that this legislation will not preempt the kind of state and local action against apartheid that has occurred throughout this country."

Advocates of total preemption make much of a vote last month against an amendment by Sen. Alfonse M. D'Amato (R-N.Y.). But this amendment pertained only to a special contracting issue (whereby federal funds for New York City might be withheld if local authorities, acting against companies still in